

RECORD COPY EPC Meeting
File Name ADM-1-1-1 June 1995
AGENDA
Chair's Initials *JS*

**MEETING AGENDA
ENVIRONMENTAL PROTECTION COMMISSION
WALLACE STATE OFFICE BUILDING
DES MOINES, IOWA
June 20, 1994**

Meeting convenes at 10:00 a.m., Monday, June 20, 1994, in the fourth floor conference room.

Public Participation

10:30 a.m.

APPOINTMENTS:

Kevin Fors (waste tire cleanup)

10:15 a.m.

Steve Intlekofer (Item # 11)

1:00 p.m.

1. Approve Agenda.
2. Approve Minutes of May 16, 1994.
3. Director's Report. (Wilson) Information.
4. Monthly Financial Status Report. (Kuhn) Information.
5. Strategic Planning Statement, FY 96/97 Budget Request. (Kuhn) Information.
6. Monthly Reports. (Stokes) Information.
7. Final Rule--Chapter 72, Protected Stream Variance Criteria. (Stokes) Decision.
8. Final Rule--Chapters 103 and 111, Landfill Financial Responsibility. (Stokes) Decision.
9. Final Rule--Chapter 134, Registration of Groundwater Professionals. (Stokes) Decision.
10. Notice of Intended Action--Chapter 23, Open Burning. (Stokes) Decision.
11. Petition for Declaratory Ruling on Rule 23.1(3)"a", (Stokes) Decision.
12. Referrals to the Attorney General. (Stokes) Decision.
 - a) Mark Achenbach (Rockford)
 - b) Jay Browns (Murray)
 - c) City of Orchard
 - d) Verna and Don Reed; Andrea Silsby (Union Co.)
13. 1993 Flood Report (Wilson) Information.
14. General Discussion.
15. Address Items for Next Meeting.

NEXT MEETING:

July 18, 1994

ENVIRONMENTAL PROTECTION COMMISSION

Monday, June 20, 1994

NAME

COMPANY OR AGENCY

CITY

(PLEASE PRINT)

[Signature]

[Signature]

[Signature]

STEVE GUYER

IES Industries

Cedar Rapids

Donald Lammers

Liaetwigen

Dorothy Lammers

Bob Gudy

Brad Spencer

Jennifer Grandors

Jane B. McAllister

Ankers Law Firm

DSM

Amy Christensen Couch

Sullivan & Ward

DM

PETE Duffy

ISOSWO

Tracy

Perry Beeman

DM Register

DM

Mark Tuesdell

Beving Law Firm

DM

Chris Gault

Farm Bureau

WDSM

Shurt Feldstein

Brown Winick Graves

Des Moines

She Cooper

League of Iowa Municipalities

Kathie Obradovich

Lee Newspapers

DM

Jack Clark

Iowa Utility Assoc.

DM

Iowa Hospital Assoc

DM

ENVIRONMENTAL PROTECTION COMMISSION

Monday, June 20, 1994

NAME

COMPANY OR AGENCY

CITY

(PLEASE PRINT)

Elliot Waddell

Five States Eng.

Westfield, MA

David J. Thompson

NWISA SWA

Shelburne

Stephen J. Kulkofe

American Asbestos TRAVEL
Center Hdl

Montreal

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MINUTES
OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING

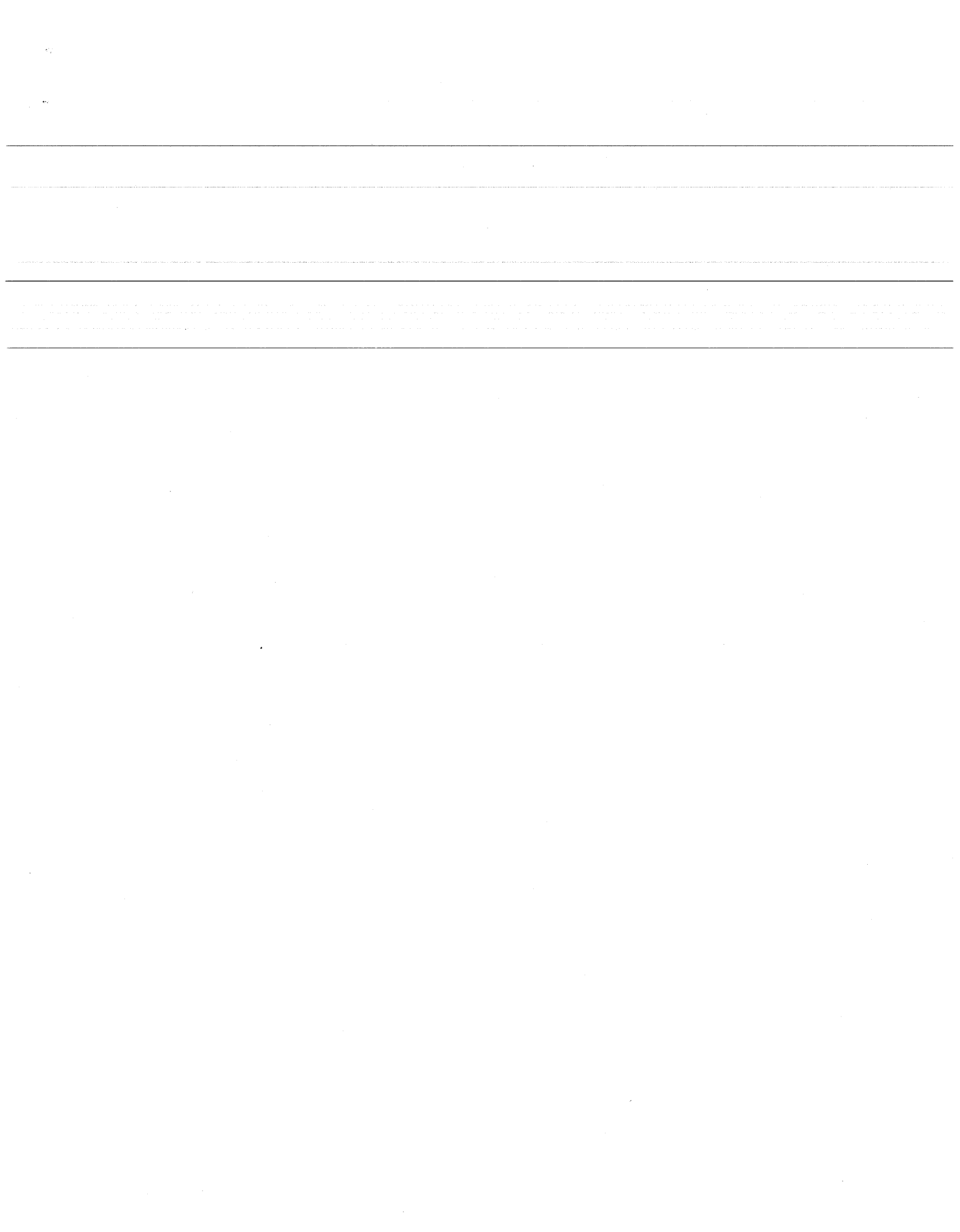
JUNE 20, 1994

WALLACE STATE OFFICE BUILDING
DES MOINES, IOWA

TABLE OF CONTENTS

Call to Order.....	1
Members Present	1
Adoption of Agenda.....	1
APPROVED AS AMENDED.....	1
Approval of Minutes.....	1
APPROVED AS PRESENTED.....	1
Director's Report.....	1
Financial Status Report - YTD Division Expenditures	2
INFORMATIONAL ONLY	6
Strategic Planning Statement, FY 96/97 Budget Request	6
INFORMATIONAL ONLY	14
Appointment - Kevin Fors	14
Public Participation.....	15
Pete Duffy (Landfill Financial Responsibility rules).....	15
Donald Lammers (Protected Streams rules).....	15
Sue Cosner (Landfill Responsibility rules)	15
Chris Gault (Protected Streams rules).....	16
Stuart Feldstein (Landfill Financial Responsibility rules)	16
Elliott Waddell (Landfill Financial Responsibility rules).....	16
David Honcomp (Landfill Financial Responsibility rules).....	17
Monthly Reports	17
INFORMATIONAL ONLY	35
Final Rule--Chapter 72, Protected Stream Variance Criteria	35
APPROVED AS PRESENTED.....	38
Final Rule--Chapter 103 and 111, Landfill Financial Responsibility	38
APPROVED AS PRESENTED.....	51
Final Rule--Chapter 134, Registration of Groundwater Professionals.....	51
APPROVED AS PRESENTED.....	54
Notice of Intended Action--Chapter 23, Open Burning	54
APPROVED AS PRESENTED.....	56

Petition for Declaratory Ruling on Rule 23.1(3)"a"	56
Appointment - Steve Intlekofer	68
DEPARTMENTAL RULING UPHELD	69
Referrals to the Attorney General	69
Mark Achenbach	70
REFERRED	70
Jay Browns	70
REFERRED	70
City of Orchard	70
REFERRAL WITHDRAWN	70
Verna and Don Reed; Andrea Silsby	71
REFERRED	71
1993 Flood Report	71
General Discussion	72
Next Meeting	72
Clean Water Act Task Force	72
Governor's Environmental Livestock Task Force	73
Rosebar Tire Shredding	73
Next Meeting Dates	73
Adjournment	73



MEETING MINUTES

CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairperson Siebenmann at 10:00 a.m. on Monday, June 20, 1994, in the Wallace State Office Building, Des Moines, Iowa.

MEMBERS PRESENT

Verlon Britt
William Ehm
Rozanne King, Secretary
Charlotte Mohr
Kathryn Murphy
Gary Priebe
Nancylee Siebenmann, Chair
Clark Yeager, Vice-Chair

ADOPTION OF AGENDA

The following adjustments were made to the agenda:

- Add: Appointment - Steve Intlekofer (Item #11) - 1:00 p.m.

Motion was made by Rozanne King to approve the agenda as amended. Seconded by Charlotte Mohr. Motion carried unanimously.

APPROVED AS AMENDED

APPROVAL OF MINUTES

Motion was made by Gary Priebe to approve the meeting minutes of May 16, 1994, as presented. Seconded by William Ehm. Motion carried unanimously.

APPROVED AS PRESENTED

DIRECTOR'S REPORT

Larry Wilson, Director, stated that he has asked Teresa Hay to provide the Commission with an up-to-date report of the circumstances involving the placement of the Ohio site for the LLRAW Compact. He related that the six states in the compact are working toward an agreement with Ohio and to keep in mind that they are dealing with very long terms in the planning and

handling of low level radioactive waste. Each state would have to handle 20 years worth of waste disposal, which puts Iowa 120 years out into the future.

Teresa Hay, Iowa's Commissioner to the Low Level Radioactive Waste Compact, reviewed that the LLRWC adopted compact amendments in November 1993, and those amendments are awaiting action in the state of Ohio. The proposed amendments provide, in part, for establishment of a capacity for the compact disposal facility. It also provides that the host state has to accept waste for 20 years from the date the facility becomes operational or until the capacity is reached, whichever comes first. The most recent issue the states have been wrestling with is what the capacity should be for the Ohio regional facility. Ms. Hay noted that there is quite a bit of uncertainty as to what the compact volumes would be in the future. Over the past eight years generators have been minimizing their wastes in terms of waste reduction and volume. In some areas the volumes are going down while in other areas there is potential for volumes to significantly go up. Ohio felt that 2.25 million cubic feet would be adequate to provide for 20 years of disposal for the entire region. The Commission met in June and adopted a resolution to establish 2.25 million cubic feet as the capacity limit for Ohio. The next hurdle for the compact is to move on to enabling legislation and the compact amendments, which the compact hopes will be introduced in Ohio by January 1995, at the latest.

FINANCIAL STATUS REPORT - YTD DIVISION EXPENDITURES

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

The division level YTD expenditure report, as of 5/31/94, will be provided to the Commission for review. The report will include an estimate of total actual expenditures for FY94 operations in addition to the status as of 5/31/94. This report will be provided when available after 5/31.

In addition, included is a summary of appropriation actions by the 1994 General Assembly as compared to the DNR's request, and previous appropriations for FY93 and FY94. The FY95 amounts do not include salary adjustments.

(Reports are shown on the following 4 pages)

DEPARTMENT OF NATURAL RESOURCES- APPROPRIATION SUMMARY

APPROPRIATION NAME	FY 93 ACTUAL APPROP	FY94 ACTUAL APPROP	FY95 APPROP. REQUEST	FY95 ACTUAL APPROP	DIFFERENCE REQUEST VS ACTUAL 95
GENERAL FUND/SUPPLEMENTAL LOTTERY APPROPRIATIONS					
ADMINISTRATION OPERATIONS	\$2,066,624	\$1,877,244	\$1,852,012	\$1,827,012	(\$25,000)
PARKS OPERATIONS	\$5,444,671	\$5,424,969	\$5,365,960	\$5,365,960	\$0
FORESTRY OPERATIONS	\$1,443,010	\$1,443,518	\$1,426,916	\$1,426,916	\$0
ENERGY AND GEOLOGY OPERATIONS	\$1,656,091	\$1,660,573	\$1,651,984	\$1,651,984	\$0
ENVIRONMENTAL PROTECTION OPERATIONS	\$2,092,656	\$2,083,640	\$2,078,940	\$1,518,940	(\$560,000)
WATER QUALITY PROTECTION FUND	\$0	\$0	\$0	\$704,000	\$704,000
GREEN THUMB	\$129,279	\$0	\$0	\$0	\$0
RESOURCE ENHANCEMENT & PROTECTION	\$8,547,275	\$7,000,000	\$8,000,000	\$7,500,000	(\$500,000)
MARINE FUEL TAX OPERATIONS	\$411,311	\$411,311	\$411,311	\$411,311	\$0
MARINE FUEL TAX CAPITALS	\$1,463,000	\$1,650,000	\$1,650,000	\$1,650,000	\$0
MARINE FUEL TAX COUNTY GRANTS	\$188,945	\$200,000	\$200,000	\$200,000	\$0
BLACKHAWK LAKE DREDGING	\$397,780	\$0	\$0	\$0	\$0
5 ISLAND LAKE RESTORATION	\$0	\$200,000	\$0	\$75,000	\$75,000
EASTER LAKE RESTORATION	\$0	\$0	\$0	\$50,000	\$50,000
TOTAL GENERAL FUND APPROPRIATION	\$23,840,642	\$21,961,265	\$22,637,123	\$22,381,123	(\$266,000)
NON GENERAL FUND APPROPRIATIONS					
FISH AND WILDLIFE OPERATIONS	\$19,731,921	\$20,166,627	\$20,399,080	\$20,420,670	\$21,590
OIL OVERCHARGE	\$4,473,200	\$4,563,200	\$2,538,200	\$2,538,200	\$0
UST ADMINISTRATION MATCH	\$136,000	\$145,000	\$145,000	\$75,000	(\$70,000)
HAZARDOUS WASTE REMEDIAL FUND FOR AIR QUALITY	\$0	\$0	\$0	\$281,000	\$281,000
SNOWMOBILE FUND TRANSFER TO	\$100,000	\$100,000	\$100,000	\$100,000	\$0
FISH AND WILDLIFE TRUST FUND	\$950,000	\$950,000	\$1,200,000	\$1,571,590	\$371,590
BOATING REGISTRATION FUND TRANSFER TO					
FISH AND WILDLIFE TRUST FUND					
TOTAL NON GENERAL FUND APPROPRIATIONS	\$26,391,121	\$26,924,827	\$24,382,280	\$24,986,460	\$604,180
TOTAL	\$49,231,763	\$47,876,082	\$47,019,403	\$47,367,583	\$348,180

NOTES

* THE ENVIRONMENTAL PROTECTION DIVISION APPROPRIATION WAS INCREASED BY 125K OF WHICH 25K

Director's Office

EXPENSE	FY94 BUDGET	YTD BUDGET 5/31/94	YTD ACTUAL 5/31/94	UNDER(OVER)	EST. TOTAL FY94
PERS SERV	993,316	916,831	866,116	50,715	935,000
PERS TRV IN	52,150	43,441	32,080	11,361	42,000
STATE VEHICL	8,431	7,757	3,868	3,869	4,300
DEPRECIATION	12,450	11,454	7,100	4,354	8,000
PERS TRV OUT	8,900	7,414	6,968	446	9,000
OFF SUPPLY	89,050	74,179	68,877	5,302	95,000
FAC MAINT SU	3,000	2,499	983	1,516	2,000
EQUIP MAINT	6,850	5,706	3,188	2,518	4,400
OTHER SUPPLY	57,150	47,506	34,362	13,244	48,000
PRINT & BIND	312,431	260,255	256,578	3,677	281,000
UNIFORMS	800	666	306	360	800
COMMUNICATIO	29,100	24,240	17,789	6,451	25,000
RENTALS	500	417	1,137	(721)	1,500
UTILITIES	750	625	175	450	400
PROF SERV	110,216	88,173	76,500	11,673	115,000
OUTSIDE SERV	24,100	20,075	18,999	1,078	24,100
ADVER PUB	10,000	8,330	0	8,330	0
DATA PROC	14,050	11,704	7,460	4,244	9,000
REIMBURSEMENT	6,175	5,144	318	4,826	2,500
EQUIPMENT	33,817	30,435	26,162	4,273	45,000
OTHER EXP	2,500	2,166	100	2,066	500
Totals	1,775,836	1,589,115	1,429,066	140,049	1,652,500

Note: \$57,000 is encumbered for printing, supplies, and equipment purchase order encumbrances.

Administrative Services Division

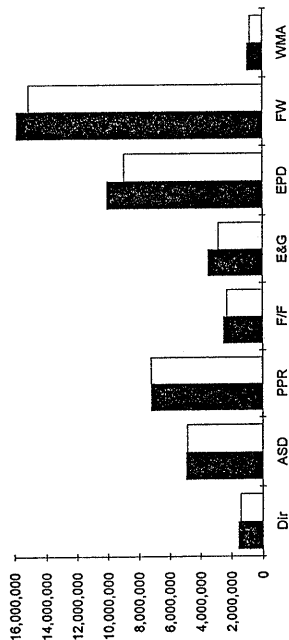
EXPENSE	FY94 BUDGET	YTD BUDGET 5/31/94	YTD ACTUAL 5/31/94	UNDER(OVER)	EST. TOTAL FY94
PERS SERV	3,689,678	3,387,113	3,293,534	93,579	3,530,000
PERS TRV IN	53,550	44,607	35,090	9,517	40,000
STATE VEHICL	59,000	54,280	43,860	10,420	49,000
DEPRECIATION	80,500	74,080	62,560	11,500	69,000
PERS TRV OUT	7,300	6,081	4,784	1,297	5,500
OFF SUPPLY	315,255	262,607	272,715	(10,109)	325,000
FAC MAINT SU	21,000	17,493	1,830	15,663	6,000
EQUIP MAINT	52,000	43,316	48,080	(4,764)	59,000
OTHER SUPPLY	14,300	11,912	13,768	(1,876)	17,000
PRINT & BIND	14,500	12,079	18,138	(9,069)	20,000
UNIFORMS	2,500	2,083	1,444	639	2,000
COMMUNICATIO	93,100	77,552	77,550	2	103,000
RENTALS	500	417	254	163	500
UTILITIES	0	0	527	(527)	600
PROF SERVICES	0	0	48,589	(48,589)	64,000
OUTSIDE SERV	78,650	65,515	24,138	41,377	50,000
ADVER PUB	500	417	0	417	500
DATA PROC	91,700	79,386	128,118	(51,732)	180,000
AUDITOR REIM	150,000	82,000	117,372	(35,372)	150,000
REIMBURSEMENT	118,150	98,419	124,481	(26,042)	150,000
EQUIPMENT	189,508	170,557	145,399	25,158	234,000
OTHER EXP	550,000	400,000	383,632	16,368	385,000
LICENSES	50	0	0	0	0
Totals	5,561,741	4,886,893	4,845,963	41,030	5,420,100

Note: Approximately \$37,000 is encumbered, primarily for equipment, and supplies.

The average in data processing and professional services results from costs involved in updating the DNR's PC LAN.

This is being offset by savings in a variety of areas, primarily staffing.

DNR Division Budget Status, May 31, 1994



Parks, Preserves, and Recreation Division

EXPENSE	FY94 BUDGET	YTD BUDGET 5/31/94	YTD ACTUAL 5/31/94	UNDER(OVER)	EST. TOTAL FY94
PERS SERV	4,452,081	4,109,271	4,034,063	75,208	4,370,000
SEASONAL HELP	1,175,473	999,152	992,117	7,035	1,300,000
PERS TRV IN	61,775	51,459	60,816	(9,357)	73,000
STATE VEHICL	202,800	186,576	194,352	(7,776)	220,000
DEPRECIATION	294,000	270,480	278,555	(8,065)	303,800
PERS TRV OUT	7,685	6,402	3,640	2,762	4,000
OFF SUPPLY	46,700	38,901	27,924	10,977	34,000
FAC MAINT SU	454,800	363,840	384,841	(21,001)	525,000
EQUIP MAINT	299,999	249,899	291,836	(41,937)	365,000
PROF SUPPLY	1,000	833	0	833	0
AG CONS SUPP	30,000	24,990	18,083	6,907	60,000
OTHER SUPPLY	42,994	35,814	25,945	9,869	35,000
PRINT & BIND	33,000	27,489	53,799	(26,310)	60,000
UNIFORMS	46,277	38,549	17,487	21,062	50,000
COMMUNICATIO	105,502	87,883	79,536	8,347	95,000
RENTALS	34,900	29,072	24,155	4,917	30,000
UTILITIES	390,951	325,662	333,660	(8,018)	415,000
PROF SERV	74,000	61,642	49,019	12,623	60,000
OUTSIDE SERV	185,352	154,398	156,921	(2,523)	200,000
ADVER PUB	2,550	2,124	583	1,541	1,000
DATA PROC	6,000	4,998	3,930	1,068	5,000
REIMBURSEMENT	2,475	2,062	3,241	(1,179)	4,000
EQUIPMENT	152,378	137,140	165,248	(28,108)	185,000
OTHER EXP	4,700	3,915	967	2,928	1,500
LICENSES	697	581	472	109	500
Totals	8,109,089	7,213,131	7,201,240	11,891	8,396,800

Note: Budget overages primarily result from flood cleanup costs. \$53,000 of these costs

have been already recovered and will offset this overage. More recovery

is expected before July. An additional \$164,000, primarily equipment and facility

maintenance, is encumbered.

Energy and Geological Resources Division

EXPENSE	FY94 BUDGET	YTD BUDGET 5/31/94	YTD ACTUAL 5/31/94	UNDER(OVER) BUDGET	EST. TOTAL FY94
PERS SERV	2,390,834	2,206,740	2,076,018	180,722	2,250,000
PERS TRV IN	42,875	35,715	17,083	18,832	22,000
STATE VEHICL	20,850	19,182	11,691	7,491	14,000
DEPRECIATION	33,570	30,884	23,530	7,354	26,000
PERS TRV OUT	37,300	31,071	34,605	3,594	37,300
OFF SUPPLY	18,900	15,744	28,336	(12,592)	36,000
FAC MAINT SU	4,450	3,707	867	2,840	1,500
EQUIP MAINT	16,250	13,536	1,807	11,729	3,000
PROF SUPPLY	2,900	2,416	977	1,439	1,500
OTHER SUPPLY	41,850	34,361	18,067	16,794	20,000
PRINT & BIND	60,725	50,584	27,880	22,704	40,000
COMMUNICATIO	43,000	35,819	32,428	3,391	42,000
RENTALS	350	292	2,444	(2,152)	3,000
UTILITIES	13,500	11,246	17,062	(5,817)	17,500
PROF SERV	1,019,773	815,818	454,569	361,249	500,000
OUTSIDE SERV	39,075	32,549	11,260	21,289	14,000
ADV & PUBLICITY	0	0	352	(352)	400
DATA PROC	27,750	23,116	11,469	11,647	14,000
REIMBURSEMENT	7,390	6,155	2,568	3,590	4,000
EQUIPMENT	126,119	113,507	66,075	47,432	90,000
OTHER EXP	2,600	2,169	4,639	(2,473)	6,000
Totals	3,950,061	3,485,108	2,843,725	641,383	3,142,200

Note: The division is significantly under budget in Professional Services because several planned contracts for the Energy program have not been awarded yet, and because of slow billing of several other contractual obligations. \$23,000 is encumbered for equipment purchases and supply items.

Environmental Protection Division

EXPENSE	FY94 BUDGET	YTD BUDGET 5/31/94	YTD ACTUAL 5/31/94	UNDER(OVER) BUDGET	EST. TOTAL FY94
PERS SERV	7,618,462	7,031,840	6,935,575	68,285	7,500,000
PERS TRV IN	84,800	70,638	41,468	29,170	55,000
STATE VEHICL	57,000	52,440	34,999	17,441	40,000
DEPRECIATION	65,000	59,800	57,005	2,795	63,000
PERS TRV OUT	101,202	84,301	53,714	30,587	65,000
OFF SUPPLY	74,500	62,059	64,594	(2,536)	80,000
FAC MAINT SU	5,800	4,665	751	3,904	2,000
EQUIP MAINT	14,200	11,829	10,215	1,614	15,000
PROF SUPPLY	21,350	17,795	0	17,785	0
OTHER SUPPLY	38,200	31,821	19,846	11,975	26,000
PRINT & BIND	41,250	34,361	48,394	(14,033)	55,000
UNIFORMS	3,500	2,916	1,659	1,257	2,500
COMMUNICATIO	134,800	112,268	120,683	(8,405)	162,000
RENTALS	66,700	55,561	56,606	(1,045)	66,700
UTILITIES	23,650	19,700	15,055	4,645	19,000
PROF SERV	2,099,648	1,679,718	1,087,039	592,880	1,200,000
OUTSIDE SERV	80,300	66,890	69,533	(2,643)	88,000
ADVER PUB	8,000	6,684	5,326	1,338	8,000
DATA PROC	251,200	209,250	135,695	73,555	175,000
REIMBURSEMENT	25,600	21,325	12,138	9,187	15,000
EQUIPMENT	446,093	401,484	138,475	263,009	340,000
OTHER EXP	9,500	7,914	8,650	(737)	9,500
Totals	11,261,055	10,037,334	8,908,789	1,128,545	9,986,700

Note: Professional Services is significantly under budget, primarily in the 319 water planning program. \$209,000 is encumbered for equipment & printing.

Forests and Forestry Division

EXPENSE	FY94 BUDGET	YTD BUDGET 5/31/94	YTD ACTUAL 5/31/94	UNDER(OVER) BUDGET	EST. TOTAL FY94
PERS SERVICES	1,732,351	1,599,145	1,567,173	31,972	1,686,000
SEASONAL HELP	105,826	89,952	86,546	3,406	94,000
PERS TRV IN	44,500	37,069	28,216	8,853	37,000
STATE VEHICL	92,500	85,100	61,435	23,665	70,000
DEPRECIATION	139,700	128,524	121,985	6,539	134,000
PERS TRV OUT	8,800	7,330	3,223	4,107	5,000
OFF SUPPLY	20,300	16,910	15,340	1,570	17,000
FAC MAINT SU	44,000	36,852	39,361	(2,709)	55,000
EQUIP MAINT	57,000	47,481	50,051	(2,570)	59,000
PROF SUPPLY	500	417	0	417	0
AG CONS SUPP	129,000	107,457	112,381	(4,924)	150,000
OTHER SUPPLY	39,900	33,237	35,352	(2,115)	38,000
PRINT & BIND	15,500	12,912	5,481	7,431	10,000
UNIFORMS	16,100	13,411	5,026	8,385	16,100
COMMUNICATIO	43,669	36,376	26,316	10,060	35,000
RENTALS	35,000	29,155	16,997	12,158	35,000
UTILITIES	37,000	30,821	23,255	7,566	33,000
OUTSIDE SERV	77,000	64,141	42,682	21,459	72,000
ADVER PUB	1,000	833	376	457	500
DATA PROC	3,300	2,749	3,565	(816)	4,600
REIMBURSEMENT	550	458	537	(79)	550
EQUIPMENT	140,822	126,740	52,109	74,631	75,000
Totals	2,784,518	2,506,869	2,297,407	209,462	2,636,750

Note: Budget overage in "AG CONS SUPP" is primarily related to tree seed purchases in the fall and is normal. \$83,000 is encumbered for equipment, maintenance, and similar items.

Fish and Wildlife Division

EXPENSE	FY94 BUDGET	YTD BUDGET 5/31/94	YTD ACTUAL 5/31/94	UNDER(OVER) BUDGET	EST. TOTAL FY94
PERS SERV	11,572,522	10,681,438	10,707,642	(26,204)	11,640,000
SEASONAL HELP	755,530	642,201	526,425	115,776	740,000
PERS TRV IN	333,170	277,531	281,085	(3,554)	333,170
STATE VEHICL	464,936	427,741	452,977	(25,236)	510,000
DEPRECIATION	727,480	669,282	620,025	49,257	672,000
PERS TRV OUT	29,400	24,490	26,947	34,000	34,000
OFF SUPPLY	299,118	249,165	279,418	(30,253)	300,000
FAC MAINT SU	475,227	395,864	300,587	95,277	415,000
EQUIP MAINT	334,436	278,595	282,795	(4,210)	336,000
AG CONS SUPP	344,075	286,614	236,024	50,590	300,000
OTHER SUPPLY	96,607	80,474	114,514	(34,040)	160,000
PRINT & BIND	191,668	159,658	82,470	77,188	120,000
UNIFORMS	133,275	111,018	64,383	46,635	134,000
COMMUNICATIO	188,950	157,395	190,221	(32,826)	280,000
RENTALS	66,035	55,007	47,292	7,715	60,000
UTILITIES	214,716	178,858	182,214	(3,356)	220,000
PROF SERV	334,000	287,200	97,224	169,976	120,000
OUTSIDE SERV	121,912	101,553	162,306	(60,753)	160,000
ADVER PUB	23,000	19,159	1,988	17,171	3,000
DATA PROC	53,200	44,316	64,847	(20,531)	84,000
REIMBURSEMENT	138,450	131,989	30,744	101,245	45,000
EQUIPMENT	682,039	613,835	324,272	289,563	500,000
OTHER EXP	600	500	1,626	(1,126)	2,000
LICENSES	300	250	46	204	50
Totals	17,600,644	15,854,122	15,078,072	776,050	17,148,220

Note: \$503,000 is encumbered, in addition to expenditures shown, primarily for equipment, printing, supplies, and facility maintenance.

Waste Management Assistance Division

	FY94	YTD BUDGET	YTD ACTUAL	UNDER(OVER)	EST. TOTAL
EXPENSE	BUDGET	5/31/94	5/31/94	BUDGET	FY94
PERS SERV	716,525	661,353	647,202	14,151	697,000
PERS TRV IN	28,200	23,491	19,255	4,236	24,500
PERS TRV OUT	47,270	39,376	20,483	18,893	2,500
OFF SUPPLY	6,679	5,564	6,046	(482)	13,000
EQUIP MAINT	950	791	0	791	0
OTHER SUPPLY	18,050	15,036	7,344	7,692	8,000
PRINT & BIND	81,794	68,134	27,697	40,437	30,000
COMMUNICATIO	20,680	17,210	11,157	6,053	15,000
RENTALS	0	0	829	(829)	800
PROF SERV	143,190	119,277	46,006	73,271	75,000
OUTSIDE SERV	9,140	7,614	8,896	(1,282)	10,000
ADVERTISING	0	0	785	(785)	800
DATA PROC	5,020	4,182	6,592	(2,410)	8,000
REIMBURSEMENT	16,950	14,119	9,521	4,598	10,500
EQUIPMENT	2,200	1,980	0	1,980	0
OTHER EXP	5,200	4,332	4,639	(307)	5,200
Totals	1,101,828	982,457	816,452	166,005	900,300

Mr. Kuhn stated that an appropriations summary has been added to the routine monthly division reports. Also added was a column which estimates actual expenditures through the end of the year for division operations. He expanded on details of the individual reports.

Discussion followed regarding the impact on the budget as a result of a good (or bad) 3-day weekend in terms of camping revenues. Director Wilson commented that those weekends could be a positive or negative impact and could make or break the budget. If camping receipts fail to develop, it puts the department in a bind.

INFORMATIONAL ONLY

STRATEGIC PLANNING STATEMENT, FY 96/97 BUDGET REQUEST

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

As a first step leading toward submission of the FY 96/97 budget request, the Department of Management requested agencies to undertake a short-term strategic planning effort to identify high priority issues, goals and related strategies which may be key elements in the forthcoming budget request.

These planning statements are currently being reviewed by the DOM and will be used to shape policy direction by DOM to the agencies regarding budget request preparation.

Review and comment is invited by both the Natural Resource and Environmental Protection commissions.

Department of Natural Resources Mission Statement

To manage, protect, conserve, and develop Iowa's natural resources in cooperation with other public and private organizations and individuals so that the quality of life for Iowans is significantly enhanced by the use, enjoyment and understanding of those resources.

Goal Summary

- To achieve and maintain compliance with Federal and State environmental regulations related to water, air and land in a manner which encourages responsible economic development and involves meaningful citizen participation.
- To increase the level of infrastructure renovation and maintenance so that project backlogs are eliminated within the next 5 years, and so that annual maintenance and renovation is equal to the need.
- To develop public conservation and recreational resources so that the public's expectations for quality outdoor experiences are met.
- To pursue the protection of lands possessing important or unique conservation and environmental values.
- To increase the level of support, both volunteer efforts and financial, from citizens using public conservation resources.
- To maintain an adequate level of protection and scientific management for Iowa's fish and wildlife resources.
- To increase Iowa's use of indigenous energy sources, and to increase the use of cost-effective energy conservation measures as a means of decreasing Iowa's dependence on outside energy resources.
- To increase the commitment to pollution prevention by public and private entities through education, technical and financial assistance and documented successes; and to facilitate effective individual and community effort related to recycling and waste reduction.

Key Strategies and Innovations for Goal Implementation

-
- Utilize partnerships and coalitions with business associations, environmental organizations, and community representatives as a means of developing programs and implementing regulations in a cost-effective and supportive manner.
 - Encourage continuation of the REAP process for involving citizens in program development and for meeting infrastructure and land protection needs at both State and local levels.
 - Use the ICN as a means of both providing information to citizens and business organizations regarding environmental regulations and programs; and to solicit and encourage stronger citizen involvement in the development of related policies and programs. Provide GIS information as offerings on the ICN to local and regional government entities.
 - Encourage the use of "user" fees, supported by the user community, in instances where specific customer groups are receiving direct and recognizable benefits from environmental and conservation programs.

Critical Issue

1. Federal mandates (Clean Air Act, Clean Water Act, Waste reduction and recycling, etc.) and citizen expectations are resulting in more comprehensive environmental regulations coincident with increased demands on land, water and air resources by agricultural, and business interests.

Goal: To achieve and maintain compliance with Federal and State environmental regulations related to water, air and land in a manner which encourages responsible economic development and involves meaningful citizen participation.

Strategies and Innovations:

A. Establish effective partnerships and coalitions with business associations and environmental interest groups regarding the development of environmental regulations and related regulatory programs. Provide financial incentives for waste reduction and pollution control initiatives.

B. Provide "personal" assistance to businesses or groups applying for environmental permits. Assist business and individuals with the application process. Provide technical expertise through use of the GIS system, other State data sources, universities, and the DNR to assist industries in their efforts to reduce waste and comply with environmental regulations.

A proactive approach to helping industry comply with environmental regulations should help in encouraging economic development.

C. Provide more complete and up-to-date information regarding regulatory expectations, including use of the ICN, to regulated parties and citizens.

D. Shift State funding, as possible, to core environmental regulatory programs, and use federal cost-share for desired program enhancements as a means of developing more State autonomy within the federal regulatory framework. Explore "user" fees supported by industry groups as a means for reducing demands on the State's general fund.

Critical Issue

2. Maintenance and renovation of conservation and outdoor related public infrastructure has been deferred to achieve short-term budget savings. The current replacement value of DNR infrastructure is \$508 million. A minimum of 2% per year of that should be directed toward maintenance and renovation. Current budget levels allow for about 4/10ths of one percent annually. Planned development of public recreation and park areas is being delayed. Well-maintained infrastructure makes a significant contribution to quality of life and encourages economic development.

Goal: To increase the level of infrastructure renovation and maintenance so that project backlogs are eliminated within the next 5 years, and so that annual maintenance and renovation is equal to the need.

To develop public conservation and recreational resources so that the public's expectations for quality outdoor experiences are met.

Strategies and Innovations:

A. Encourage full funding of the REAP program as a means of responding to maintenance and renovation needs at State and local levels. Identify possible sources of revenues outside of the State's General fund for REAP program support.

B. Place greater reliance on the five-year capital planning process to identify and focus attention on maintenance, renovation and development needs of the highest priority.

C. Encourage the efforts and contribution of the REAP assemblies and the REAP congress in developing program priorities. Use the current REAP formula to leverage limited State funds with local funds and private donations.

Critical Issue

3. Increasing demands are being place on both public and private land. There are increasing public expectations for all lands, public and private, to be managed for the common good. Public and private lands should have reasonable protection from conflicting uses, while continuing to respect private property rights. Parcels possessing unique conservation values should be treated as a public trust.

Goal: To pursue the protection of lands posessing important or unique conservation and environmental values.

Strategies and Innovations:

A. Public involvement in the development of land use policies and decisions should continue to be fostered through the REAP program and the development of environmental policy. Partnerships with local government and private interest groups through the REAP program should be encouraged.

B. Plans completed and approved for open spaces protection, trails, forest resources, protected water areas, fishing lake development, wetland development and protection, and wildlife habitat should continue to serve as outlines for action with annual reviews and updates to focus on accomplishment and program adjustment.

C. Funds from private conservation associations, local government, and the federal government should be used in conjunction with REAP and Fish and Wildlife revenues for land acquisition and private land management incentives, both to leverage available State revenues and to encourage involvement by individuals, groups and other levels of government.

Critical Issue

4. The aging of Iowa's population will result in decreased sales of hunting and fishing license sales and expectations of low fees. Concurrently, increasing numbers of retirees will increase the use of public resources for leisure activities. There is growing interest in the non-game program. Related federal cost-share programs are being reduced. Maintenance of adequate enforcement and management programs will become more difficult.

Goal: To increase the level of support, both volunteer efforts and financial, from citizens using public conservation resources.

Goal: To maintain an adequate level of protection and scientific management for Iowa's fish and wildlife resources.

Strategies and Innovations:

A. Partnerships and coalitions are vital to maintain and continue progress in resource programs. Volunteer efforts in areas as diverse as toxic waste cleanup days and hunter safety instruction save significant State dollars. The DNR needs to continue efforts aimed at involving local groups and individuals as volunteers.

B. Continued implementation of personal computer systems for productivity and improved license sales systems must be given a high priority. Training of DNR users, electronic communications with DNR field units over the ICN, and provision of current technology is important to increasing productivity.

C. Emphasize "skills" training to teach customers how to hunt, fish and utilize public lands in an ethical manner, and to increase license sales.

D. Experience has demonstrated that the public is willing to pay reasonable user fees where the need is obvious and the service directly benefits the customer. Exploration of user fees at appropriate levels should be continued with focus on achieving acceptance and support from the community expected to pay the user fee.

Critical Issue

5. Continuing the long-term effort to significantly increase energy efficiency in both public and private sectors is important for both economic development and reducing public sector outlays.

Goal: To increase Iowa's use of indigenous energy sources, and to increase the use of cost-effective energy conservation measures as a means of decreasing Iowa's dependence on outside energy resources.

Strategies and Innovations:

A. Requests from public agencies for energy assistance are steadily increasing. Yet Oil Overcharge funds are being exhausted as a source of program support. A small portion of dollars saved through energy efficiency programs should be earmarked to continue program efforts proven successful at reducing energy usage.

B. Encourage the use of energy crops (switch grass, poplars, etc.) as plantings on CRP land and buffer strips. These biomass sources could serve a dual benefit of protecting land resources while, at the same time, reducing agriculture's dependence on imported fuel.

Critical Issue

6. Waste management and pollution prevention need to be viewed as complementary efforts. Initial efforts have demonstrated that effective use of "waste" is often an unrecognized profit opportunity.

Goal: To increase the commitment to pollution prevention by public and private entities through education, technical and financial assistance and documented successes; and to facilitate effective individual and community effort related to recycling and waste reduction.

Strategies and Innovations:

A. Focus WMA programs on waste reduction programs by larger organizations as being more cost-effective. The infrastructure for individual efforts, i.e., toxic waste cleanup days and regional collection sites is being successfully established, allowing a shift in program emphasis.

B. Continue to encourage the use of "waste" materials by industry as an economic resource. Continue economic incentives such as the Landfill Alternatives grant program.

Mr. Kuhn stated that the Strategic Planning Statement is somewhat different than what has been seen in the last 4-5 years in terms of state budgeting. He noted that the bureaucracy is involving other stakeholders in the process while trying to improve, streamline, and make the budgeting process more cost effective. The Department of Management (DOM) asked the individual agencies to do a strategic planning exercise as a preparatory step to the budget request. Mr. Kuhn noted that the agencies will receive feedback from DOM in terms of budget request guidelines as to priorities and needs. He related that the department's planning statement pretty much reflects critical issues which the agency had identified in the past, with some updating added.

Director Wilson commented that this is an important document the Commission should keep as it is a guidance for the department. It would be a good document for future reference as it outlines critical issues of the agency.

INFORMATIONAL ONLY

APPOINTMENT - KEVIN FORS

Kevin Fors, Parker and Fors Law Firm, stated that he is representing Bob Grady, a landowner from Webster County, and conjunctually Marjorie Roberts. He circulated copies of letters Mr. Grady received from F.O. #2 requiring him to clean up some tires on his property. Mr. Fors stated that some time ago the Firestone Tire Company from Ft. Dodge dumped tires into a valley on Mr. Grady's property. He related that Mr. Grady was approached by the department last fall to clean up the tires on his property, but because of the wet year he was given until June 1, 1994 to do this. Mr. Fors stated Mr. Grady hired someone to do the cleanup, and that the May letter from the DNR indicated that following an inspection it was found that all the tires from Mr. Grady's acres had been removed. He related that the DNR is now complaining that Mr. Grady did not remove the tires from his neighbor's property (Mr. Cassidy). Mr. Fors stated that there is a strict liability law in Iowa that states that if the tires are on a person's property, that person is responsible for them. He added that no one has made any attempt to get Mr. Cassidy to remove the tires from his property, and Mr. Grady was not the generator of the waste. He related that Firestone generated the waste and no one has approached them about removing the tires from the property. He noted that the letters were also sent to Marjorie Roberts who is not a landowner and did not generate the waste, and does not know why enforcement action is against her. Mr. Fors asked the Commission to investigate and enforce the law that states the landowner is responsible to clean up the property, and possibly see if the generator can be held responsible.

Clark Yeager asked who Marjorie Roberts is and if Mr. Grady owned the land when the tires were dumped there.

Mr. Grady stated that he did own the land when the tires were dumped. He added that during a divorce case, he at one time transferred some land to his sister, Marjorie Roberts. He noted that the land was later transferred back to him.

Allan Stokes noted that generally when the department investigates these matters they go back through court house records to determine title holders on the property. He stated that if staff or the field office had been informed of these matters they would have been looked into. He added that if Mr. Grady has some evidence to document whose tires were on the property, it would have been helpful if staff had been given that information. He noted that he and staff will follow up on the matter and conduct an investigation and enforcement action. Mr. Stokes stated that it does not mean staff will forstall any enforcement action that might be against Mr. Grady at this juncture, and if in fact the department proceeds and it gets to a more formal stage, Mr. Grady would have formal appeal rights to the Commission.

PUBLIC PARTICIPATION

Pete Duffy (Landfill Financial Responsibility rules)

Peter Duffy, representing ISOSWO and ISAC, addressed the Commission stating that they are in support of the Landfill Financial Responsibility rules. He related that he worked on the ad hoc committee in development of those rules and he would like to thank Mr. Stokes and staff for their help on Senate File 2300 dealing with risk assessment with leachate and the SWA program.

Donald Lammers (Protected Streams rules)

Donald Lammers, landowner from Graettinger, addressed the Commission in relation to the Protected Streams rules noting that the real issue is property rights. He added that it is not the job of every environmental group to preserve his land because that is his job, and he feels he does it best.

Sue Cosner (Landfill Responsibility rules)

Sue Cosner, League of Iowa Municipalities, thanked Mr. Stokes and staff for allowing various organizations to participate in development of the Landfill Financial Responsibility rules. She related that the League of Iowa Municipalities support the rules, but late in the process it came to their attention that there is a possibility that the ten year pay-in period may be adjusted to a longer period of time. She added that it is their hope that the department and the Commission will keep an open mind to amendments to the rules in the future, particularly if they find that EPA is willing to consider a longer pay-in period.

Chris Gault (Protected Streams rules)

Chris Gault, Iowa Farm Bureau Federation, stated that they are in support of the Protected Streams rules because they clarify what the protected stream status does, what the procedure is, and what the appeal process is. She added that it also clarifies many concerns of farmers such as livestock access to streams, installing fences, etc. She thanked the Commission for holding the second set of hearings but cautioned them in looking at the numbers because it was in the middle of planting season and farmers do not get away at that time.

Stuart Feldstein (Landfill Financial Responsibility rules)

Stuart Feldstein, representing Nishna Sanitary Service, addressed the Commission informing them that he delivered a letter to them on Friday regarding the Landfill Financial Responsibility rules. He related that he would like to bring to their attention certain potential amendments to the rules. He noted that he questions some of the rule provisions that might make it difficult for the smaller owner/operators to demonstrate financial assurance within the constraints of the rule and expanded on those provisions. Mr. Feldstein stated that he would support amendments to the rules that would increase the pay-in schedule for owners and operators into a trust fund consistent with Subtitle D. He noted that the modifications he has proposed are highlighted in his letter and expanded on same. He stated that the Director should be authorized to approve alternative financial assurance mechanisms, other than those specifically set forth in the rule.

Elliott Waddell (Landfill Financial Responsibility rules)

Elliott Waddell, Consulting Engineer for North West Iowa Solid Waste Agency, distributed written comments to the Commission as follows and presented same:

COMMENTS TO THE ENVIRONMENTAL PROTECTION COMMISSION

Re: Financial Assurance Requirements for Municipal Solid Waste Landfills

Dear Sirs:

The comments as presented herein are based on the results of the responsiveness survey which resulted from written and verbal comments as presented during public hearings for the proposed requirements.

We note that we have presented written and verbal comments to the department during the public hearing period.

Our greatest concern about these regulations centers on a 10 year period which is the maximum period of time in which closure and post closure funds can be generated regardless of the life expectancy of the site. We believe this requirement is much more restrictive than the requirement of Federal Law.

Subtitle D is based on generating funds for closure and post closure during the active life of the site, not an arbitrary 10 year period.

The responsiveness survey (Comments No. 37) indicates that the department feels these funds should be generated as a normal part of business for landfills. We hardly agree! Responsible sites now budget for closure and post closure costs as a part of future operating costs and capital funds are identified for these purposes. The primary difference from the department response is that these funds are normally generated over the active life of the site, not an arbitrary 10 year period. The comment implication that closure, post closure, or corrective action will be delayed if the 10 year rule is not kept in place is a poor understanding of the nature of local communities. We know of no city or county which professes this philosophy.

We request that the Commission instruct the department to change the regulations to replace the requirement of a "10 year period" with language which identifies "the active life of the site." This language is in agreement with the intent of Subtitle D.

Current Iowa law requires each individual and community to be financially responsible for its solid waste. This requirement will not be weakened by the requested language change. The 10 year rule does result in artificially high costs of financial assurance for sites with long projected service lives. The artificial period for generation of funds may increase financial assurance costs by a factor of 3 to 6 times the necessary cost.

We agree that these regulations are needed for non responsible sites. We however feel that if the 10 year rule is not changed a majority of responsible sites will be unnecessarily penalized. Please consider these factors as you review this final draft of the requirements for financial assurance.

David Honcomp (Landfill Financial Responsibility rules)

David Honkomp, NW Iowa Area Solid Waste Agencies, stated that they represent five counties covering 42 towns in NW Iowa, under a 28E Agreement. He related that the mechanism that they had sought to use for financial assurance for closure and post closure were the bonding capabilities of those communities as a start up, and then to establish a fund later on. He noted that one problem he can see is that in asking that those communities have a bonding indebtedness of a million dollars is over what they should be asked to do. He added that he thinks it should be changed so that they can use the bonding capability of the community and not have that indebtedness. This would allow them to have time to establish a trust fund.

MONTHLY REPORTS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Enforcement Status Report
5. Contested Case Status Report

Members of the department will be present to expand upon these reports and answer questions.

(Reports are shown on the following 16 pages)

IOWA DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
RULEMAKING STATUS REPORT
June 1, 1994

PROPOSAL	NOTICE TO COMMISSION	NOTICE PUBLISHED	RULES REVIEW COMMITTEE	HEARING	FINAL SUMMARY TO COMMISSION	RULES ADOPTED	RULES PUBLISHED	RULE EFFECTIVE
1. Ch. 20, 21, 22, 23 - Air Quality Rule Updates	5/16/94	6/22/94	*7/ /94	*7/22/94	*8/15/94	*8/15/94	*9/14/94	*10/19/94
2. Ch. 22 - Voluntary Operation Permits - Air Quality	3/21/94	4/13/94	5/11/94	5/24/94 5/25/94 5/26/94	*7/18/94	*7/18/94	*8/17/94	*9/21/94
3. Ch. 23 - Open Burning	6/20/94	*7/20/94	*8/ /94	*8/ /94	*9/19/94	*9/19/94	*10/12/94	*11/16/94
4. Ch. 50, 51 - Agricultural Drainage Well Permits	*7/18/94	*8/17/94	*9/ /94	*9/ /94	*10/17/94	*10/17/94	*11/09/94	*12/14/94
5. Ch. 61 - Water Quality Stds. Numeric WQ Criteria	4/18/94	5/13/94	6/14/94	6/06/94 6/07/94 6/08/94 6/10/94	*7/18/94	*7/18/94	*8/17/94	*9/21/94
6. Ch. 67 - Sewage Sludge	2/21/94	3/16/94	4/11/94	4/18/94 4/19/94 4/20/94 4/21/94	*7/18/94	*7/18/94	*8/17/94	*9/21/94
7. Ch. 72 - Flood Plain Development - Protected Streams Variance Criteria	3/21/94	4/13/94	5/11/94	5/03/94	6/20/94	*6/20/94	*7/20/94	*8/24/94
8. Ch. 81 - Water Supply Systems; Wastewater Treatment Plants	4/18/94	5/13/94	6/14/94	6/03/94	*7/18/94	*7/18/94	*8/17/94	*9/21/94
9. Ch. 103, 111 - Landfill Financial Assurance	2/21/94	3/16/94	4/11/94	4/06/94	6/20/94	*6/20/94	*7/20/94	*8/24/94
10. Ch. 134 - Registration of Groundwater Professionals	2/21/94	3/16/94	4/11/94	4/05/94 4/06/94 4/07/94	6/20/94	*6/20/94	*7/20/94	*8/25/94
* Projected								

MONTHLY VARIANCE REPORT						
Month: May, 1994						
No.	Facility	Program	Engineer	Subject	Decision	Date
1.	City of Eldridge	Wastewater Construction	Shive-Hattery Engineers and Architects, Inc.	Sewer Pipe Material	Approved	05/12/94
2.	City of Emmetsburg	Wastewater Construction	Jacobson-Westergard & Associates	Sewer Grade	Approved	05/23/94
3.	City of Council Bluffs	Flood Plain	HGM Associates, Inc.	Freeboard	Approved	05/02/94
4.	Des Moines River Bridge - Palo Alto County	Flood Plain	Palo Alto County Engineer	Freeboard	Approved	05/06/94
5.	Lake McDowell Dam No.1 -Lee County	Flood Plain	Roland Krebil	Storm/Storage Capacity	Approved	05/16/94
6.	Muscatine County Sanitary Landfill	Solid Waste	Fox Engineering Associates, Inc.	Groundwater Monitoring	Approved	05/11/94
7.	City of Sheldon	Watersupply Construction	City of Sheldon	Design Basis	Approved	05/09/94
8.	Stone State Park - Woodbury County	Watersupply Construction	Siouxland Engineering Associates	Construction Materials	Approved	05/24/94

TOPIC: Report of Hazardous Conditions

During the period May 1, 1994, through May 31, 1994, reports of 75 hazardous conditions were forwarded to the central office. Two incidents are highlighted below. A general summary and count by field office is attached. This does not include releases from underground storage tanks, which are reported separately.

Date Reported and County	Material, Amount, Cause, Location & Impact	Responsible Party	Response
05/06/94 Polk	A mobile crane tipped over in Clive spilling 10 gallons of motor oil and 50 gallons of diesel fuel onto the ground. No surface waters or sewers were impacted.	Pitt-Des Moines 9600 Hickman Road Clive, Iowa	Oil dry was applied to the spill. The oil dry and contaminated soil were removed for disposal at a sanitary landfill.
05/11/94 Audubon	A minibulk tank was being removed from a truck and it fell off, causing a lid to pop off the tank. 60 gallons of Prowl pesticide was spilled on an asphalt drive and on soil. No surface waters were impacted. The spill occurred at the facility.	Land O' Lakes 207 N Market Audubon, Iowa	Absorbents were applied to the spilled material. The absorbents and the contaminated soil were removed for land application at a later date.

Substance						Mode				
Month	Total Incidents	Petroleum Product	Agri - Chemical	Other Chemicals and Substances	Handling and Storage	Pipeline	Highway Incident	RR Incident	Fire	Other
October	56(83)	37(54)	6(8)	13(21)	34(51)	0(0)	20(25)	0(2)	0(0)	2(5)
November	52(74)	34(46)	3(7)	15(21)	30(38)	3(1)	14(26)	0(0)	1(0)	4(9)
December	41(67)	30(41)	2(9)	9(17)	23(37)	0(2)	14(28)	2(0)	0(0)	2(0)
January	67(61)	47(47)	3(0)	14(17)	38(37)	1(1)	23(21)	2(1)	2(0)	1(6)
February	57(61)	38(47)	3(0)	16(14)	29(32)	2(1)	22(21)	2(1)	0(0)	2(6)
March	69(71)	42(46)	6(4)	21(21)	44(45)	0(2)	14(21)	2(1)	3(1)	6(1)
April	88(90)	39(58)	33(12)	16(20)	50(55)	0(1)	29(29)	2(1)	0(1)	3(7)
May	75(103)	28(56)	29(24)	18(23)	38(57)	5(3)	22(30)	2(2)	3(8)	5(3)
June										
July										
August										
September										

Total Number of Incidents Per Field Office This Period:

(numbers in parentheses for the same period in fiscal year '93)

1	2	3	4	5	6
16	9	9	9	18	14

REPORTS OF RELEASES FROM UNDERGROUND STORAGE TANKS

During the period of May 1, 1994 through May 31, 1994, the following number of releases from underground storage tanks were identified.

32 (20)

The number in parentheses represents the number of releases during the same period in Fiscal Year 1993.

NUMBER OF LUST CLEANUPS COMPLETED

During the period of May 1, 1994 through May 31, 1994, the following number of LUST cleanups were completed:

6 (716)

The number in parentheses represents the total number of LUST cleanups through May 31, 1994.

NUMBER OF LOW RISK SITES APPROVED

During the period of May 1, 1994 through May 31, 1994, the following number of low risk sites were approved:

23 (336)

The number in parentheses represents the total number of low risk LUST sites through May 31, 1994.

Enforcement Report Update

The following new enforcement actions were taken last month:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Carter Lake, City of (4)	Drinking Water	Monitoring/Reporting; Certified Operator	Referred to AG	5/16/94
Hidden Valley Mobile Home Court, Fairfield (6)	Drinking Water	Operation Without Permit (Renewal)	Order/Penalty	5/17/94
Winfield Scott McKinney and Gary L. McKinney d/b/a Harmony Creek Farms, Ltd., Kent (4)	Wastewater	Construction Without Permit; Prohibited Discharge	Order/Penalty	5/17/94
Maquoketa, City of (1)	Wastewater	Discharge Limits	Order	5/17/94
Roquette America, Inc., Keokuk (6)	Wastewater Hazardous Condition	Prohibited Discharge; Failure to Notify	Order/Penalty	5/17/94
Cargill, Inc., Eddyville (5)	Air Quality	Construction Without Permit	Order	5/17/94
James William Smith, Graettinger (3)	Underground Tank	Closure Investigation	Order/Penalty	5/17/94
Giese Construction Co., Inc., and William H. Giese, Ft. Dodge (2)	Underground Tank	Closure Investigation	Order/Penalty	5/17/94
Jack Thiel, Inc., Remsen (3)	Underground Tank	Closure Investigation	Order/Penalty	5/17/94
Joseph L. Ranker and Daryl Hollingsworth, Indianola (5)	Underground Tank	Site Assessment	Order/Penalty	5/17/94
Edward Bodensteiner, Des Moines (5)	Underground Tank	Site Assessment	Order/Penalty	5/17/94
K-Mart Corporation, Store #7261, Des Moines (5)	Underground Tank	Site Assessment	Order/Penalty	5/17/94
Home Oil Stations, Inc., Otto-Matic, Inc., and Lawrence Otto, Burlington (6)	Underground Tank	Closure Investigation	Order/Penalty	5/17/94
R.D.J. Farms and Donald Vogt, Van Horne (1)	Underground Tank	Site Assessment	Order/Penalty	5/17/94
Tom Wiseman, Sheffield (2)	Underground Tank	Site Assessment	Order/Penalty	5/17/94
Larry and Kelly Miller, Ogden (5)	Underground Tank	Site Assessment	Order	5/17/94
King Transfer, Ltd., and George B. King, Onawa (4)	Underground Tank	Site Assessment	Order/Penalty	5/17/94
Frontier Cooperative Herbs, Vinton (1)	Air Quality	Construction Without Permit; Emission Standards-Particulate	Order/Penalty	5/20/94
Walnut Grove Water Co., Davenport (6)	Drinking Water	MCL-Bacteria; Public Notice	Order	5/26/94
Richard Prusha, Elberon (5)	Wastewater	Certified Operator	Order	5/27/94

Environmental Protection Commission Minutes

Summary of Administrative Penalties

June 1994

The following administrative penalties are due:

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
Marvin Kruse d/b/a K & C Feeds (Luana)	UT	300	12-01-92
Don Grell d/b/a Dodger Enterprise (Ft. Dodge)	AQ	10,000	2-16-93
Duane Pospisil d/b/a Duane's Service (Lisbon)	UT	1,000	5-04-93
Franklin Raymond (Pacific Junction)	UT	300	7-07-93
Eddie Hemmer (Jones County)	AQ/SW	600	8-01-93
*Delano's Lounge (Washington)	WS	425	9-01-93
Melvin Foubert d/b/a Mel's Repair Service (What Cheer)	UT	400	12-13-93
Richard Waugh d/b/a Dick's Apco Car Wash (Hampton)	UT	885	12-13-93
Stan Simmer d/b/a Tire City (Des Moines)	UT	600	12-21-93
*63-80 Cafe (Moore Oil Co.) (Malecom)	WS	200	1-20-93
William Hatch d/b/a R & R Convenience Store (Central City)	UT	2,480	2-28-93
K-Service, Inc.; Kirkendall Enterprises, et.al. (Sloan)	UT	1,440	2-28-94
Kurt & Mary Marzofka; John & Shirley Riordan (Sabula)	UT	500	3-31-94
Jay Browns d/b/a Browns Service (Murray)	UT	1,272	4-04-94
Verna and Don Reed; Andrea Silsby (Union Co.)	SW	1,000	4-07-94
Paul Underwood d/b/a Underwood Excavating (Cedar Rapids)	AQ	4,000	4-22-94
Ida Grove Farm Supply Co. d/b/a Double Circle Farm Supply Co. (Galva)	UT	2,300	5-15-94
*Phil McMains d/b/a MEDA (Moulton)	AQ	800	6-01-94
Kennedy Car Kleen (Fairfield)	WW	1,000	6-12-94
J. Wood Park (Garnaville)	WS	120	6-15-94
Dennis Malone & Joanne Malone (Morning Sun)	UT	600	6-16-94
Buffalo Bill Estates, Inc. (Clinton Co.)	WS	1,000	6-18-94
The Heights (Monticello)	WS	670	6-23-94
Larry and Kelly Miller (Ogden)	UT	2,000	7-19-94
Giese Construction Co.; William Giese (Ft. Dodge)	UT	600	7-19-94
R.D.J. Farms; Donald Vogt (Van Horne)	UT	1,300	7-20-94
King Transfer, Ltd.; George B. King (Onawa)	UT	2,400	7-20-94
Winfield S. McKinney; Gary L. McKinney (Union Co.)	WW	1,000	7-20-94
K-Mart Corporation/Store #7261 (Des Moines)	UT	6,000	7-20-94
Home Oil Stations; Otto-Matic; Larence Otto (Burlington)	UT	3,000	7-20-94
Roquette America, Inc. (Keokuk)	WW/HC	2,000	7-20-94
Frontier Cooperative Herbs (Vinton)	AQ	5,000	7-23-94
James William Smith (Graettinger)	UT	300	7-23-94
Hidden Valley Mobile Home Court (Washington Co.)	WS	200	7-25-94
Jack Thiel, Inc. (Remsen)	UT	300	7-26-94
Leland Koster and Jim Koster (Alexander)	UT	350	-----
American Demolition Corp. of Iowa (Cedar Rapids)	AQ	6,000	-----
Edward Bodensteiner (Des Moines)	UT	3,200	-----
Tom Wiseman (Sheffield)	UT	3,500	-----
TOTAL		69,042	

The following cases have been referred to the Attorney General:

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
OK Lounge (Marion)	WS	448	11-01-87
Richard Davis (Albia)	SW	1,000	2-28-88
Eagle Wrecking Co. (Pottawattamie Co.)	SW	300	5-07-89
*Twelve Mile House (Bernard)	WS	119	5-20-89
*Lawrence Payne (Ottumwa)	SW	425	6-19-89
William L. Bown (Marshalltown)	SW	1,000	10-01-89
Wellendorf Trust (Algona)	AQ/SW	460	2-12-90
Donald P. Ervin (Ft. Dodge)	SW	669	3-05-90
Gerald G. Pregler (Dubuque Co.)	SW	1,000	9-02-90
Donald R. Null (Clinton Co.)	AQ/SW	1,000	9-06-90
Robert and Sally Shelley (Guthrie Center)	SW	1,000	3-04-91
Fred Varner (Worth Co.)	SW	950	4-11-91
Honey Creek Camping Resort (Crescent)	WS	245	6-13-91
F.R. Thomas/F.R. Thomas, Jr. d/b/a Clair View Acres Store (Delhi)	WS	1,000	8-04-91
*M & W Mobile Home Park (Muscatine)	WW	200	8-21-91
Vern Starling (Boone Co.)	SW	690	9-15-91
Lloyd Dunton (Iowa Co.)	SW	300	11-07-91
Vernus Wunschel d/b/a Wunschel Oil (Ida Grove)	UT	300	1-12-92
Kenneth Bode (Mills Co.)	SW	300	4-27-92
V.R. Dillingham d/b/a Barb's Service (Everly)	UT	600	5-21-92
Tandem Oak Park Associates (Ft. Dodge)	WS	405	6-03-92
Dick White (Washington County)	AQ	250	8-15-92
Robert Plendl d/b/a Plendl Trucking (Kingsley)	UT	300	10-15-92
Rankin Roofing & Siding Co. (Knoxville)	UT	500	11-09-92
Tony Hoyt d/b/a Lake Wilderness (Lee Co.)	AQ	1,000	1-23-93
Bernard Gavin Veterinary Clinic (Wellsburg)	SW	600	5-02-92
Tim Sharp (Newton)	UT	1,000	1-25-93
Jack Link Truck Line, Inc. (Dyersville)	UT	300	1-25-93
David Young d/b/a Sierp Oil Co. (Casey)	UT	300	2-10-93
Carson Grain & Implement (Coggon)	UT	1,000	8-03-92
Dale Hall d/b/a Hall Oil Co. (Des Moines)	UT	300	7-06-93
Robert Bodwell (Winterset)	UT	300	7-07-93
Richard Newman (Des Moines Co.)	SW	500	11-01-93
Louis Saak d/b/a Saak Oil Co. (Baxter)	UT	1,560	12-25-93
Smith Oil Co.; Franklin Smith (Mt. Ayr)	UT	600	3-31-94
Carter Lake, City of	WS	1,700	3-14-94
TOTAL		22,621	

*Payment Schedule

94Jun-23

June 1994

Environmental Protection Commission Minutes

The following administrative penalties have been appealed:

NAME/LOCATION	PROGRAM	AMOUNT
Amoco Oil Co. (Des Moines)	UT	1,000
Amoco Oil Co. (West Des Moines)	UT	1,000
Sioux City, City of	WW	1,000
Des Moines, City of	HC	1,000
Van Dusen Airport Services (Des Moines)	HC	1,000
Joe Eggers, Jr., et.al. (St. Ansgar)	SW	1,000
McDowell Dam #1 (Lee Co.)	FP	500
McDowell Dam #2 (Lee Co.)	FP	500
Oskaloosa Food Products Corp. (Oskaloosa)	WW	1,000
Wiota, City of	WS	500
Hickory Hollow Water Co. (Ankeny)	WS	400
White Consolidated/Frigidaire Co. (Jefferson)	WW	1,000
Humboldt County Sanitary Landfill Commission	SW	1,000
Wayne Transportation, Inc. (Greene)	WW	1,000
Mulgrew Oil Company (Dubuque)	HC	500
John Staub d/b/a Mr. Convenient (Burlington)	UT	600
Charles Kerr (Sloan)	UT	600
Stringtown Country Cafe (Lenox)	WS	1,000
Lincoln Farm and Home Service (Henderson)	WW	1,000
Chickasaw Co. SLF, et.al. (Chickasaw Co.)	SW	1,000
Plymouth Cooperative Oil Co. (Hinton)	WW	1,000
LaVerne Rehder (Union)	UT	300
Randy Bonin/Vickie Brannick (Hardin Co.)	SW	500
Dean Hoeness d/b/a Hoeness & Sons (Winterset)	UT	300
Decatur, City of	UT	600
Case Power and Equipment (Decorah)	WS	500
King's Terrace Mobile Home Court (Ames)	WW	500
ITWC, Inc. (Malcom)	AQ	1,000
Lloyd Decker (Floyd Co.)	SW	1,000
Eldon Krambeck (Scott Co.)	AQ	1,000
Waucoma, City of	WS	200
Tracy Below (Hardin Co.)	WW	1,000
Grand Laboratories, Inc. (Larchwood)	WW	1,000
Frank Hulshizer (Benton Co.)	SW	500
Cargill, Inc. (Eddyville)	SW/WW	1,000
Chicago/Northwestern Transp. Co. (Council Bluffs)	HC	1,000
Pirelli Armstrong Tire Corp. (Polk Co.)	SW	1,000
Midway Oil Co. (Indianola)	UT	300
Raven Corp. & Midway Oil Co. (Toledo)	UT	600
TRS Industries, Inc.; City of Des Moines (Des Moines)	SW	3,000
Land Renu, Inc. (Rockwell City)	SW	1,000
Henning Wood Products, Inc. (Winneshek Co.)	SW	500
Cyclone Steeple Jacks Inc. (Nevada)	AQ	1,000
Wells Dairy, Inc. (LeMars)	WW	5,000
LeMars, City of	WW	5,000
Fine Oil Co.; John and Diane Fine (Appanoose Co.)	AQ/HC/WW	10,000
Economy Solar Corp. (Monticello)	AQ	100
Phil McMains (Appanoose Co.)	SW	4,000
Crane Co. d/b/a Crane Valves (Washington Co.)	SW	500
Donald Udell (Plymouth Co.)	SW	1,000
Daisy H. Gridley Conservatorship, et.al. (Union Co.)	SW	1,000
Mel-Ray Mobile Home Park (Ankeny)	WW	500
Thomas L. Burt, et. al. (Butler Co.)	SW	1,000
Oakwood Park Water, Inc. (Ankeny)	WS	1,000
U.S. Dept. of Defense (Sioux City)	UT	5,720
Blue Spruce Feedlots, Inc. (Pottawattamie Co.)	WW	5,000
Valley Restaurant/Sierp Oil/Mary & Carl Sierp (Villisca)	UT	5,000
Valley Restaurant/Sierp Oil/Robert Radford (Villisca)	UT	2,300
Trust Trucking Corp.; Jim and Brenda Huyser (Lovilia)	UT	840
Orlo Stewart, et.al. (Webster Co.)	SW	1,000
Porcine-New Way Co.	WW	4,000
George Krakow; Elmer Krakow (Marengo)	UT	1,275
J.P. Scherrman, Inc. (Farley)	UT	1,160
Walnut Grove Water Company (Davenport)	WS	2,000
Lester D. Davis & Evelyn McKelvogue (Warren Co.)	AQ/SW	5,000
Waverly Gravel & Ready-Mix aka Shell Rock Sand & Gravel (Shell Rock)	AQ	3,000
Anderson Excavating & Wrecking Co. (Waterloo)	AQ	1,000
Farmers Hybrid Companies, Inc. (Keokuk Co.)	WW	4,500
L.F. & Betty Everett; Vern Barker & Donald Knotts, d/b/a Barker & Knotts Construction; and Gene Philips (Ottumwa)	AQ	10,000
Eli Shada (Anamosa)	UT	1,328
Home Asbestos & Lead Abatement Services (Johnston)	AQ	2,000
James and Robert Brock d/b/a B & B Oil (Ringsted)	UT	1,685
M and D Tire Processing, Inc. (Decatur Co.)	SW	10,000
Merrill, City of	AQ	5,000
Harold Lee (Keokuk Co.)	WW	3,300
Riverside Plating Company (Shell Rock)	WW	1,500
Economy Solar Corp. (Monticello)	AQ	5,000
Lyle Lorensen (Garwin)	HC	4,000
Technical Asbestos Control, Inc. (Davenport)	AQ	1,000
Toys "R" Us, Inc. (Davenport)	UT	5,560
Coastal Mart, Inc.-Store #1081 (Davenport)	UT	5,320
John Deere Company (Waterloo)	AQ	1,000
Enviro Safe Air, Inc. (Sioux City)	AQ	2,000
Paul Nagle d/b/a Cyclone Steeple Jacks (Nevada)	AQ	4,000
Waste Management & Design, Inc. (Webster City)	WW	10,000
Parkwest, Ltd.; Wilbur Numelin; Ricky Lee Anderson (Clear Lake)	UT	2,280
Country Stores of Carroll, Ltd.; Roger Kanne (Carroll)	UT	10,000

E94Jun-24

Environmental Protection Commission Minutes

June 1994

Elite, Ltd.; Roger Kanne; James Pietig (Coon Rapids)	UT	3,500
Elite, Ltd.; Roger Kanne; James Pietig (Logan)	UT	3,288
HiWay Texaco, Ltd.; Roger Kanne; Rick Kanne (Bagley)	UT	5,000
Solvay Animal Health, Inc. (Charles City)	AQ/SW	5,000
Cedar Rapids, City of; YWCA (Cedar Rapids)	AQ	3,000
Iowa-Illinois Thermal Insulation; American Demolition Corp. (Cedar Rapids)	AQ	6,000
Arlo Becker d/b/a Becker's Auto Salvage (Benton Co.)	AQ	3,000
Corydon Community Development Corp. (Corydon)	AQ	3,000
Terry Beaird d/b/a Curry Environ. Services (Marion)	AQ	4,000
Galva Union Elevator Co. (Galva)	UT	3,100
Henry Krohn; Randy Krohn d/b/a Krohn Const. (Dallas Co.)	AQ	1,500
Armour Swift-Eckrich (Britt)	WW	1,000
Farmers Hybrid Companies, Inc. (Hamilton Co.)	WW	5,000
Sara Lee Corporation (New Hampton)	WW	10,000
Creston Commercial Feeders, Inc. (Union Co.)	WW	1,000
Creston, City of	WW	1,000
Clarke County Sanitary Landfill	SW	10,000
New Hampton, City of	WW	10,000
Joseph L. Ranker; Daryl Hollingsworth (Indianola)	UT	4,000
Elberon, City of	WW	1,000
TOTAL		275,656

The following administrative penalties were paid last month:

NAME/LOCATION	PROGRAM	AMOUNT
B & R Insulation, Inc. (Middletown)	AQ	250
Clow Valve Company (Oskaloosa)	AQ	2,000
Oskaloosa, City of	WW	1,000
Graham Tire Co. of Spencer (Spencer)	UT	500
Allan Winder d/b/a Winder Trucking Co.; Supply Transport, Inc. (Coralville)	WW/HC	4,000
Dubuque, City of	WW	2,600
* Phil McMains d/b/a MEDA (Moulton)	AQ	200
Wells Dairy, Inc. (LeMars)	HC	1,000
Braddyville, City of	WS	100
William H. Viner (Emerson)	UT	600
Don Carlson d/b/a Carlson Oil Co. (Armstrong)	UT	800
William D. Ames (Woodbury Co.)	SW	1,000
Holnam Inc. (Mason City)	AQ	2,500
Twice Over Clean, Inc. (Davenport)	AQ	500
Austin J. DeCoster (Wright Co.)	WW	3,000
Nishna Sanitary Service, Inc. (Fayette Co.)	SW	500
Ron Jungling d/b/a Jungling Texaco (Wellsburg)	UT	100
TOTAL		20,650

DEPARTMENT OF NATURAL RESOURCES ENVIRONMENTAL PROTECTION COMMISSION ATTORNEY GENERAL REFERRALS June 1, 1994

Name, Location and Region Number	Program	Alleged Violation	DNR Action	New or Updated Status	Date
Advanced Technologies Corp. Cedar Falls (1)	Air Quality	Asbestos	Referred to Attorney General	Referred	3/21/94
American Asbestos Training Center, Ltd. Monticello (3)	Air Quality	Asbestos	Referred to Attorney General	Referred	3/21/94
Ampel Corporation Des Moines (5)	Updated Air Quality	Construction Without Permit Permit Conditions	Referred to Attorney General	Referred Petition Filed Trial Date	12/20/93 2/21/94 10/18/94
Bodwell, Robert Winterset (5)	Underground Tank	Site Assessment	Order/Penalty	Referred	2/21/94
Carlson, Don d/b/a Carlson Oil Co. Armstrong (3)	Underground Tank	Site Assessment	Order/Penalty	Referred	3/21/94
Carney, Don and Gertrude Ft. Dodge (2)	Updated Solid Waste	Illegal Disposal	Order/Penalty	Referred Petition Filed Trial Date	4/15/91 3/25/92 6/28/94
Carson Grain & Implement Co. Coggon (1)	Underground Tank	Site Assessment	Order/Penalty	Referred Petition Filed	10/18/93 12/09/93

June 1994

Environmental Protection Commission Minutes

DEPARTMENT OF NATURAL RESOURCES
 ENVIRONMENTAL PROTECTION COMMISSION
 ATTORNEY GENERAL REFERRALS
 June 1, 1994

Name, Location and Region Number	Program	Alleged Violation	DNR Action	New or Updated Status	Date
Carter Lake, City of (4)	Now	Drinking Water	Monitoring/Reporting; Certified Operator	Order/Penalty	Referred 5/16/94
Chicago & Northwestern Transportation Co.	Hazardous Condition	Remedial Action	Order	Petition for Judicial Review Petition for Judicial Review Petition for Judicial Review Order/Change Venue to Hardin Co. Oral Arguments Order Affirmed Supreme Court Appeals Filed	8/19/91 8/14/91 9/16/91 11/21/91 3/10/93 4/23/93 5/23/93
Blue Chip Enterprises					
Hawkeye Land Company Iowa Falls (2)					
Cota Industries, Inc. Des Moines (5)	Hazardous Condition	Remedial Action	Order	Referred Petition for Judicial Review Order Granting Motion to Dismiss Notice of Appeal Affirmed by Supreme Court Petition Filed	4/15/91 4/18/91 7/23/91 8/13/91 10/21/92 4/16/93
Des Moines, City of (5) v. IDNR	Solid Waste	DNR Defendant	Defense	Petition Filed Application for Stay DNR Answer	1/18/94 1/18/94 2/08/94
Dunton, Lloyd Iowa County (6)	Solid Waste	Illegal Disp.	Order/Penalty	Referred Petition Filed	12/16/91 8/26/92
Ecology Enterprises, Inc; Hollis D. DeVoe; Michael Murray; Robert Rausch Chickasaw County (1)	Solid Waste	Illegal Disposal	Referred to Attorney General	Referred Petition Filed	6/15/92 3/04/93
Economy Solar Corp. Springville (1)	Air Quality	Asbestos	Referred to Attorney General	Referred	3/21/94
Ervin, Don Webster County (2)	Solid Waste	Operation Without Permit	Order/Penalty	Referred Judgment for \$1,000 Execution & Order to Levy Application to Condemn Funds Partial Payment Received (\$331)	4/16/90 7/13/90 9/28/90 11/27/90 11/30/90
		Permit Violations	Referred to Attorney General	Referred Temporary Injunction Order of Contempt Order Granting Stay Contempt Reversed (Court of Appeals) Application for Further Review Supreme Ct. Reversed Ct of Appeals Order to Serve Sentence Application for Hearing Order Denying Reconsideration of Sentence Trial Date	9/16/91 9/18/91 12/20/91 12/26/91 9/29/92 10/16/92 2/17/93 3/17/93 3/18/93 3/19/93 1/10/95
Giese Construction Co. Ft. Dodge (2)	Solid Waste Air Quality	Illegal Dis- posal; Open Burning	Referred to Attorney General	Referred Petition Filed Trial Date	5/29/92 3/26/93 6/14/94
Giese Construction Co. Ft. Dodge (2)	Hazardous Cond. Wastewater	Site Contamination	Referred to Attorney General	Referred Petition Filed Trial Date	1/19/93 3/26/93 6/14/94
Hall, Dale Des Moines (5)	Underground Tank	Site Assessment	Order/Penalty	Referred	2/21/94
Halsne, Grant d/b/a Halsne, Inc. Decorah (1)	Underground Tank	Site Assessment	Order	Referred Petition Filed	10/18/93 12/06/93

DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
ATTORNEY GENERAL REFERRALS
June 1, 1994

Name, Location and Region Number	Program	Alleged Violation	DNR Action	New or Updated Status	Date
Harrison County Board of Supervisors (4)	Solid Waste	Operating Violations	Referred to Attorney General	Referred	2/21/94
International Hydroform Pella (5)	Underground Tank	Remedial Action	Order	Referred Petition Filed	5/17/93 1/18/94
Jack Link Truck Line, Inc. Dyersville (1)	Underground Tank	Closure Investigation	Order/Penalty	Referred Petition Filed	5/17/93 1/07/94
Jarvis, Marjorie and Terry Strong Council Bluffs (4)	Underground Tank	Closure Investigation	Order	Referred Petition Filed	11/15/93 2/14/94
Landfill of Des Moines, Inc. Des Moines #4 (5)	Solid Waste	Compliance Schedule; Other	Order/Penalty	Referred Petition Filed Trial Date	12/16/91 9/01/92 7/06/94
Landfill of Des Moines, Inc. Des Moines #5 (5)	Solid Waste	Compliance Schedule; Other	Order/Penalty	Referred Petition Filed Trial Date	5/18/92 9/01/92 7/06/94
Martinez, Vincent d/b/a Martinez Sewer Service Davenport (6)	Hazardous Condition	Remedial Action	Order/Penalty	Referred Petition Filed	2/17/92 12/21/92
Bob McKiniss Excavating & Grading v. IDNR	Hazardous Condition	DNR Defendant	Defense	Suit Filed DNR Motion to Dismiss Ruling on Motion to Dismiss and Bifurcation Ruling on Phase I Trial	3/12/91 5/01/91 3/26/92 9/01/93
McNear, Wilbur, Dennis Stoner, Jack & Betty Hawn (4)	Underground Tank	Site Assessment	Referred to Attorney General	Referred	2/21/94
Moore, Ron d/b/a 63-180 Cafe Malcom (5)	Drinking Water	Mtrg/Rprtng Nitrate; Other	Order/Penalty	Referred Payment Schedule (\$1,000/Admin.)	11/16/92 4/02/93
Newman, Richard Des Moines Co. (6)	Solid Waste	Operating Violations	Order/Penalty	Referred Motion for Judgment	2/21/94 4/20/94
Northwood Cooperative Elevator, Worth Co. Co-op Oil Amoco v. IDNR	Hazardous Condition	DNR Defendant	Defense	Suit Filed DNR Answer Consolidation Order Suit Filed DNR Answer Consolidation Order Suit Filed DNR Answer Consolidation Order	12/07/92 12/28/92 1/05/93 12/07/93 12/28/92 3/10/93 12/15/92 1/04/93 3/10/93
Plendl, Robert B. Plendl Brothers Trucking Kingsley (3)	Underground Tank	Closure Investigation	Order/Penalty	Referred Motion for Judgment Administrative Penalty Paid (\$385)	5/17/93 5/04/93 6/07/94
Pringle, Michael and Brenda d/b/a Follet's Tap Camanche (6)	Drinking Water	Mtrg/Rprtng Bacteria/Nitrate	Referred to Attorney General	Referred Petition Filed Consent Decree (\$2,000/Civil & Injunction) Motion to Vacate Judgment Motion Denied	6/15/92 3/05/93 2/04/94 2/16/94 2/28/94

June 1994

Environmental Protection Commission Minutes

DEPARTMENT OF NATURAL RESOURCES
 ENVIRONMENTAL PROTECTION COMMISSION
 ATTORNEY GENERAL REFERRALS
 June 1, 1994

Name, Location and Region Number	Program	Alleged Violation	DNR Action	New or Updated Status	Date
Pruess, Harlan Cedar Co. (6)	Hazardous Condition	Clean-Up Costs	Defense	Suit Filed DNR Answer	7/27/93 8/13/93
Rudd, Harlan d/b/a Rudd Bros. Tires Drakesville (6)	Underground Tank	Closure Investigation	Order	Referred Groundwater Sampling	12/20/93 3/24/94
Saak, Louis d/b/a Saak Oil Co. Baxter (5)	Underground Tank	Site Assessment	Order/Penalty	Referred	3/21/94
Smith, Franklin; Smith Oil Company Mt. Ayr (5)	Underground Tank	Closure Investigation	Order/Penalty	Referred	4/18/94
Starling, Vern Perry (5)	Solid Waste	Illegal Disposal	Order	Referred Petition Filed Trial Date Trial Continued	11/16/92 4/14/93 3/24/94
Troutman, Jerry L. & Richard Van Buren Co. (6)	Solid Waste	Illegal Disposal	Order	Referred Petition Filed	10/18/93 2/15/94
Waterloo, City of (1)	Wastewater	Discharge Limits	Referred to Attorney General	Referred Petition Filed	11/15/93 12/30/93
Waterloo Community School District Waterloo (1)	Air Quality	Asbestos	Referred to Attorney General	Referred	3/21/94
Winterset, City of (5)	Wastewater	Effluent Limits	Referred to Attorney General	Referred Petition Filed Trial Date	7/20/92 3/23/93 10/11/94
Yentes, Clifford Council Bluffs (4)	Solid Waste	Illegal Disposal	Referred to Attorney General	Referred Petition Filed	4/20/92 11/23/92
Young, David Sierp Oil Company Casey (5)	Underground Tank	Closure Investigation	Order/Penalty	Referred Petition Filed	5/17/93 12/14/93

DEPARTMENT OF NATURAL RESOURCES
 ENVIRONMENTAL PROTECTION COMMISSION
 CONTESTED CASES
 June 1, 1994

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
1-23-86	Oelwein Soil Service	Administrative Order	WW	-----	Hearing continued.
2-05-88	Warren County Brenton Bank	Administrative Order	UT	Wornson	Awaiting revised SCR.
10-20-88	Worth Co. Co-Op Oil Northwood Cooperative Elevator Sunray Refining and Marketing Co.	Administrative Order	HC	Murphy	Ruling on dismissal/intervention 11/16/92. Petition for Judicial Review. Judicial review hearing continued.
1-25-89	Amoco Oil Co. - Des Moines 7LTY03	Administrative Order	UT	Wornson	Settled.
5-01-89	Amoco Oil Co. - West Des Moines	Administrative Order	UT	Wornson	Settled.

Environmental Protection Commission Minutes

June 1994

DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
CONTESTED CASES
June 1, 1994

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
6-08-89	Shaver Road Investments	Site Registry	HW	Murphy	Settlement proposed.
6-08-89	Hawkeye Rubber Mfg. Co.	Site Registry	HW	Murphy	Settlement proposed.
6-08-89	Lehigh Portland Cement Co.	Site Registry	HW	Murphy	Hearing continued. Discovery initiated.
6-22-89	Chicago & Northwestern Transportation Co. Hawkeye Land Co. Blue Chip Enterprises	Administrative Order	HC	Murphy	District court affirms Dept. - 4/23/93. Appealed to Iowa Supreme Court.
10-24-89	Farmers Cooperative Elevator Association of Sheldon	Site Registry	HC	Murphy	Settlement near.
11-03-89	Bridgestone/Firestone, Inc.	Site Registry	HC	Murphy	Hearing continued pending negotiations.
4-23-90	Sioux City, City of	Administrative Order	WW	Hansen	4/94-Letter to City regarding resolving appeal.
5-08-90	Texaco Inc./Chemplex Co. Site	Site Registry	HW	-----	Settlement proposed.
5-14-90	Van Dusen Airport Services	Administrative Order	HC	-----	Compliance initiated.
5-14-90	Alter Trading Corp. (Council Bluffs)	Administrative Order	SW	Kennedy	Negotiating before filing.
5-15-90	Des Moines, City of	Administrative Order	HC	-----	Hearing continued. Settlement proposed.
6-20-90	Des Moines, City of	NPDES Permit Cond.	WW	Hansen	City response under review by EPD.
7-02-90	Keokuk Savings Bank and Trust Keokuk Coal Gas Site	Site Registry	HW	-----	Hearing continued.
7-30-90	Key City Coal Gas Site; Murphy Trust & Howard Pixler	Site Registry	HW	-----	Decision appealed (Pixler). Motion to intervene denied 2/17/91 (Murphy Trust)
8-01-90	J.I. Case Company	Site Registry	HW	Preziosi	Hearing continued.
9-12-90	Michael & Joyce Haws; George H. Gronau	Administrative Order	UT	Wornson	New party has assumed liability. Will dismiss case upon completion of SCR.
9-20-90	Duane Schwarting	Variance Denial	SW	Kennedy	Hearing continued.
10-15-90	Westside General Store Corp.	Administrative Order	UT	Wornson	Settlement letter sent to attorney.
10-18-90	Harlan Pruess	Claim	HC	Murphy	Proposed decision - 2/18/93. Appealed to EPC. Affirmed/modified - 6/21/93. Appealed to Cedar County District Court.
12-03-90	United States Gypsum Co. Smitty's Oil	Site Registry	HC	Preziosi	Negotiating before filing.
12-04-90	United States Gypsum Co. Sperry	Administrative Order	SW	Kennedy	Negotiating before filing.
12-27-90	McAtee Tire Service, Inc.	Administrative Order	SW	Kennedy	Hearing continued.
1-07-91	Joe E. Eggers, Jr.; Joe and Mary Eggers	Administrative Order	SW	Kennedy	Hearing continued to further order.
1-09-91	Iowa Southern Utilities	Administrative Order	HC	Preziosi	Hearing continued indefinitely. Working towards settlement.
1-28-91	McDowell Dam #1 & #2	Administrative Order	FP	Clark	Negotiating before filing.
3-22-91	Mitchell Bros. Boars and Gilts	Administrative Order	WW	Murphy	Negotiating before filing.
5-09-91	Oskaloosa Food Products Corp.	Administrative Order	WW	Hansen	To be sent to DIA to be set for hearing.
5-16-91	Oskaloosa, City of	Administrative Order	WW	Hansen	Penalty paid. Appeal closed.
5-20-91	Great Rivers Coop--Lockridge	Site Registry	HC	Murphy	Settlement proposed.

June 1994

Environmental Protection Commission Minutes

 DEPARTMENT OF NATURAL RESOURCES
 ENVIRONMENTAL PROTECTION COMMISSION
 CONTESTED CASES
 June 1, 1994

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7-15-91	Des Moines Independent School District - North High School	Site Registry	HC	Murphy	Settlement proposed.
7-24-91	Alter Trading Corp. (Davenport)	Administrative Order	SW	Kennedy	Negotiating before filing.
7-27-91	Chicago North Western; Dennis Bell; Phillips Petroleum; Amoco Oil Co.	Administrative Order	HC	Murphy	Hearing continued. Compliance nearing completion.
9-25-91	Archer Daniels Midland	Administrative Order	SW	Kennedy	Negotiating before filing.
1-07-92	Wiota, City of	Administrative Order	WS	Hansen	2/93 revised report reviewed by WS - new schedule proposed.
1-17-92	Hickory Hollow Water Co.	Administrative Order	WS	Hansen	Settlement offer to WS. Counter offer 7/13/93. Dept. response on 8/3/93. Facility response 8/11/93. 12/93 Dept. letter to attorney. Construction permit issued for fluoride removal.
1-30-92	Center Oil Co., Inc.	Administrative Order	HC	Murphy	Negotiating before filing.
3-30-92	White Consolidated Industries	Administrative Order	WW	Hansen	Negotiating before filing.
4-07-92	Humboldt Co. Sanitary Landfill	Administrative Order	SW	Kennedy	Hearing continued until further order.
4-09-92	Wayne Transports, Inc.	Administrative Order	WW	Murphy	Negotiating before filing.
4-15-92	Mulgrew Oil Co.	Administrative Order	HC	Wornson	Negotiating before filing.
4-24-92	Charles A. Kerr	Administrative Order	UT	Wornson	Financial inability claimed. Requesting document.
4-30-92	Poweshiek Water Assoc.	Administrative Order	WS	Hansen	Negotiating before filing.
5-05-92	Plymouth Cooperative Oil Co.	Administrative Order	WW	Murphy	Negotiating before filing.
5-12-92	Paris & Sons, Inc.	Site Registry	HC	Murphy	Negotiating before filing.
5-15-92	Heartland Lysine, Inc.	Tax Certification	AQ	Preziosi	Negotiating before filing.
5-27-92	Beckett Chevrolet-Olds	Administrative Order	UT	Wornson	Financial inability claimed. Request documents.
6-23-92	Chickasaw County Board of Supervisors, Chickasaw Co. SLF	Administrative Order	SW	Kennedy	Negotiating before filing.
7-01-92	Des Moines Independent School District-North High	Administrative Order	WW	Murphy	Settlement proposed.
8-06-92	Randy Bonin and Vickie Brannick	Administrative Order	SW	Kennedy	Negotiating before filing.
8-24-92	Dean Hoeness d/b/a Hoeness & Sons	Administrative Order	UT	Wornson	Financial inability claimed. Request documents.
9-03-92	Case Power and Equipment	Administrative Order	WS	Hansen	Case proposal to resolve appeal to Dept.
9-21-92	Buffalo Bill Estates, Inc.	Administrative Order	WS	Clark	Settlement close.

Environmental Protection Commission Minutes

June 1994

DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
CONTESTED CASES
June 1, 1994

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
9-21-92	ITWC	Administrative Order	AQ	Preziosi	Negotiating before filing.
9-22-92	King's Terrace MHP	Administrative Order	WW	Hansen	Negotiating before filing.
10-06-92	Lloyd-Decker	Administrative Order	SW	Kennedy	Negotiating before filing.
10-12-92	Eldon Krambeck	Administrative Order	AQ	Preziosi	Settlement close.
11-13-92	Tracy Below	Administrative Order	WW	Clark	Hearing continued.
11-16-92	Grand Laboratories Inc.	Administrative Order	WW	Hansen	Unacceptable revised work plan submitted. Request acceptable plan by 4/29/94. Letter from facility's attorney 4/94. 5/94 letter to F.O. 3 from company regarding site assessment.
11-16-92	Frank Hulshizer	Administrative Order	SW	Kennedy	Negotiating before filing.
11-23-92	Cargill, Inc.	Administrative Order	SW/WW	Kennedy	Informal meeting 12/4/92.
12-14-92	Quantum	Permit Conditions	WW	Hansen	3/30/93 Dept. settlement offer made. 5/03/93 - response from company. Company collecting data. Company response submitted 12/93.
1-12-93	Chicago & North Western Transportation Co.	Administrative Order	HC	Wornson	Settled.
1-22-93	Pirelli Armstrong Tire Co.	Administrative Order	SW	Kennedy	Negotiating before filing.
1-28-93	Midway Oil Company (Indianola)	Administrative Order	UT	Wornson	Sent settlement letter.
1-28-93	Raven Corp.; Midway Oil Co. (Toledo)	Administrative Order	UT	Wornson	Negotiating penalty.
1-29-93	Case Corporation	Permit Conditions	WS	Hansen	3/1/93 Case proposal to DNR to resolve appeal.
2-19-93	TRS Industries, Inc.; City of Des Moines	Administrative Order	SW	Kennedy	Decision received 9/13/93. Appealed to EPC. Affirmed 12/20/93. Petition for judicial review.
3/09-93	James, William d/b/a Bill James Agencies	Administrative Order	SW	Kennedy	Negotiating before filing.
3/11/93	Land Renu, Inc.	Administrative Order	SW	Wornson	Compliance complete. Negotiating penalty.
3/29/93	Henning Wood, Inc.	Administrative Order	SW	Kennedy	Hearing set for 7/12/94.
4/05/93	Cyclone Steeple Jacks, Inc.	Administrative Order	AQ	Preziosi	Hearing set for 6-14-94.
4/05/93	Mapleton, City of	WW Operator Certification	WW	Hansen	Under review by EPD - letter drafted.
4/09/93	Economy Solar Corp.	Administrative Order	AQ	Preziosi	EPC decision in favor of DNR. No appeal received as of 6/3/94.
4/09/93	Fine Oil Co., Inc.	Administrative Order	AQ/HC WW	Preziosi	Settlement reached pending submission of certain financial documents.
4/09/93	Wells Dairy, Inc.	Administrative Order	WW	Hansen	12/27/93 Amended settlement proposed by Wells Dairy. 5/94 letter to Wells regarding proposed settlement.
4/12/93	LeMars, City of	Administrative Order	WW	Hansen	Plan of action submitted. Reviewed by EPD. Construction permit issued. 2/94-Schedule submitted by City for remaining construction.
4/16/93	Phil McMains	Administrative Order	SW	Kennedy	Negotiating before filing.

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June 1994

Environmental Protection Commission Minutes
DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
CONTESTED CASES
June 1, 1994

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4/19/93	Council Bluffs, City of	Permit Conditions	WW	Hansen	Under review by EPD.
4/21/93	Donald Udell	Administrative Order	SW	Kennedy	Negotiating before filing.
4/26/93	Crane Co.	Administrative Order	SW	Kennedy	Negotiating before filing.
5/23/93	Fellmer Motors	Administrative Order	FP	Clark	Negotiating before filing.
6/17/93	Lawrence Schmitz, Gerald Schmitz, Duane Schmitz, Vernon Schmitz, and Ruth Ann Frieders	Permit Issuance	FP	Clark	Hearing held 5/20 & 31/94.
6/21/93	Jacobs Energy Corp., Inc.	Permit Denial	AQ	Preziosi	Negotiating before filing.
6/23/93	Clement Auto & Truck, Inc.	Administrative Order	UT	Wornson	Hearing set for 7/21/94.
6/29/93	Mel-Ray MHP and Sales	Administrative Order	WW	Clark	Negotiating before filing.
7/06/93 7/28/93	Dennis E. Good Berniece K. Nease	Administrative Order	UT	Wornson	Negotiating before filing.
7/09/93	Oakwood Park Water, Inc.	Administrative Order	WS	Hansen	Proposal by facility's attorney 7/13/93. Response by Dept. 8/3/93. Response by facility 8/11/93. 12/93 Dept. letter to attorney. Construction permit issued 2/94.
7/20/93	Valley Restaurant/Sierp Oil; Mary & Carl Wierp; and Robert Radford	Administrative Order	UT	Wornson	Compliance with SCR initiated.
7/23/93	Blue Spruce Feedlots, Inc.	Administrative Order	WW	Clark	Negotiating before filing.
7/27/93	Trust Trucking Co.	Administrative Order	UT	Wornson	Hearing set for 6/28/94. Motion for default filed.
8/03/93	Grain Processing Corp.	Administrative Order	AQ	Preziosi	Area declared nonattainment. Hearing continued indefinitely.
8/06/93	Muscatine Power & Water	Administrative Order	AQ	Preziosi	Area declared nonattainment. Hearing continued indefinitely.
8/06/93	Monsanto	Administrative Order	AQ	Preziosi	Settlement close. Drafting consent order.
8/24/93	Green Valley Chemical	Permit Conditions	WW	Hansen	Company to do stream survey 8/94.
9/09/93	Ames Transit Authority	Permit Conditions	AQ	Preziosi	Negotiating before filing.
10/15/93	Bedford, City of	Plant Classification	WW	Hansen	Under review by EPD.
10/25/93	Porcine-New Way Co.	Administrative Order	WW	Clark	Negotiating before filing.
11/04/93	Silver City	Permit Conditions	WS	Clark	Negotiating before filing.
11/05/93	George Krakow & Elmer Krakow f/d/b/a Krakow Bros.	Administrative Order	UT	Wornson	Sent to DIA.
11/15/93	J.P. Scherrman, Inc.	Administrative Order	UT	Wornson	Penalty letter sent.
11/16/93	Iowa Southern Utilities	Permit Conditions	AQ	Preziosi	Settlement close.
11/17/93	Osceola, City of	Permit Conditions	WW	Hansen	Variance request by City regarding monitoring requirements. Under review by EPD.
11/22/93	Walnut Grove Water Co.	Administrative Order	WS	Hansen	Settlement offer sent to company's attorney. Offer accepted. Consent order sent for signatures. 5/94 order issued to facility.
12/13/93	Lester R. Davis and Evelyn McKelvogue	Administrative Order	AQ/SW	Kennedy	Settlement pending.

Environmental Protection Commission Minutes

June 1994

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12/23/93	Waverly Gravel & Ready-Mix aka Shell Rock Sand and Gravel	Administrative Order	AQ	Preziosi	Negotiating before filing.
1/03/94	Farmers Hybrid Co., Inc.	Administrative Order	WW	Clark	Negotiating before filing.
1/06/94	L.F. Everett and Betty Everett	Administrative Order	AQ	Preziosi	Negotiating before filing.
1/07/94	Eli Shada	Administrative Order	UT	Wornson	Negotiating before filing.
1/13/94	James and Robert Brock d/b/a B & B Oil Co.	Administrative Order	UT	Wornson	Hearing set for 7/7/94.
1/18/94	M & D Tire Processing, Inc.	Administrative Order	SW	Kennedy	Settlement pending.
1/18/94	Merrill, City of	Administrative Order	AQ	Preziosi	Negotiating before filing.
1/19/94	Cottage Reserve Corp.	Permit Conditions	WS	Clark	Negotiating before filing.
1/20/94	Gene Phillips d/b/a Phillips Sanitation	Administrative Order	AQ	Preziosi	Negotiating before filing.
1/27/94	Archer-Daniels-Midland	Permit Conditions	AQ	Preziosi	Negotiating before filing.
2/02/94	John Deere Waterloo Works	Tax Certification	WW	Hansen	Negotiating before filing.
2/09/94	Harold Lee	Administrative Order	WW	Clark	Negotiating before filing.
2/10/94	Lyle Lorensen	Administrative Order	UT	Wornson	Follow-up with attorney regarding penalty.
2/14/94	Economy Solar Corp 94-AQ-04	Administrative Order	AQ	Preziosi	Hearing set for 6/30/94.
2/15/94	Riverside Plating	Administrative Order	WW	Hansen	Settlement offer received from company regarding penalty.
2/21/94	Toys "R" Us	Administrative Order	UT	Wornson	Compliance initiated. Penalty appealed.
2/25/94	Phil McMains d/b/a M.E.D.A.	Administrative Order	AQ	Preziosi	Settled.
2/25/94	John Deere Waterloo Works	Administrative Order	AQ	Preziosi	Settlement close.
2/28/94	Coastal Mart Davenport	Administrative Order	UT	Wornson	Compliance complete. Settle penalty.
3/01/94	Parkwest Ltd.; Wilbur Numelin; Ricky Lee Anderson	Administrative Order	UT	Wornson	Negotiating before filing.
3/01/94	Enviro Safe Air, Inc.	Administrative Order	AQ	Preziosi	Settlement close.
3/02/94	Waste Mgmt. & Design, Inc.	Administrative Order	WW	Clark	Negotiating before filing.
3/03/94	Burlington Northern Railroad	Tax Certification	WW	Hansen	Negotiating before filing.
3/03/94	Paul Nagle d/b/a Cyclone Steeple Jacks	Administrative Order	AQ	Preziosi	Settled.
3/08/94	Country Stores of Carroll, Ltd.; Elite Ltd.; Roger Kanne; James Pietig (Logan) (Coon Rapids)	Administrative Order	UT	Wornson	Negotiating before filing.
3/10/94	Solvay Animal Health, Inc.	Administrative Order	AQ/SW	Kennedy	Settlement pending.

June 1994

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3/15/94	Ames, City of	Permit Conditions	WS	Hansen	5/94 letter from WS and Legal Services to City regarding lead/copper monitoring. 5/94 letter from City discussing appeal.
3/15/94	Iowa-Illinois Thermal Insulation, Inc.	Administrative Order	AQ	Preziosi	Settlement close.
3/16/94	Cedar Rapids, City of; Cedar Rapids YWCA	Administrative Order	AQ	Preziosi	Settlement close.
3/17/94	Arlo Becker d/b/a Becker's Auto Salvage	Administrative Order	AQ	Kennedy	Settlement pending.
3/31/94	Hormel Foods	Permit Conditions	WW	Hansen	Letter from Hormel discussing appeal upon issuance of final permit. Appeal resolved.
4/19/94	Galva Union Elevator Co.	Administrative Order	UT	Wornson	New case.
5/03/94	Henry Krohn & Randy Krohn d/b/a Krohn Construction	Administrative Order	AQ	Kennedy	Settled.
5/04/94	Armour Food Co.	Administrative Order	WW	Hansen	New case.
5/06/94	Creston Commercial Feeders	Administrative Order	WW	Clark	New case.
5/09/94	Sara Lee Corporation	Administrative Order	WW	Murphy	New case.
5/09/94	Farmers Hybrid Co., Inc.	Administrative Order	WW	Clark	New case.
5/10/94	Clarke County SLF	Administrative Order	SW	Kennedy	New case.
5/11/94	Creston, City of	Administrative Order	WW	Hansen	New case.
5/12/94	Burlington Basket Co.	Permit Denial	AQ	Preziosi	New case.
5/19/94	New Hampton, City of	Administrative Order	WW	Murphy	New case.
5/23/94	Newton, City of	Permit Issuance	FP	Clark	New case.
5/27/94	Joseph L. Ranker	Administrative Order	UT	Wornson	New case.
5/31/94	Elberon, City of	Administrative Order	WW	Clark	New case.

Mr. Stokes reviewed the monthly reports and noted that the Attorney General's staff had a conflict and could not be present this month. He related that someone from the AG's Office will be available next month to answer questions on enforcement and penalties.

Discussion followed regarding various aspects of the reports, primarily on administrative penalties and using them as a tool for compliance.

Clark Yeager asked that a column showing penalty amount be added to the New Enforcements report.

Mr. Stokes stated that possibly staff could revise the Penalty Report and Enforcement Report into one combined report.

INFORMATIONAL ONLY

FINAL RULE--CHAPTER 72, PROTECTED STREAM VARIANCE CRITERIA

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Commission will be asked to approve for final adoption rules which would:

- Add a third variance criterion to 567-72.31(3) which would allow the Department to grant a variance for a channel change on a Protected Stream if the applicant could show there would be no adverse effects on the public interest.
- Clarify the procedure for appealing the Department's denial of a request for a channel change on a Protected Stream.
- Clarify that Protected Stream status does not prohibit various activities such as bank stabilization nor require the establishment of filter strips or buffers and related amenities along Protected Streams.
- Clarify that waters hydrologically connected to Protected Streams are not Protected Streams unless specifically listed as such.

Attached is a Responsiveness Summary addressing comments received during the public comment period and at six public hearings held throughout the state. The Responsiveness Summary also addresses additional comments provided on the list of 131 streams as adopted by the Commission.

The only change in the attached Final Rule from the proposed rule as published in the Notice of Intended Action is the addition of language clarifying that Protected Stream status does not prohibit the maintenance or removal of trees along Protected Streams nor require fences along

Protected Streams. Such language was requested by several commentators and is consistent with the language clarifying what activities Protected Stream status doesn't prohibit or require.

ENVIRONMENTAL PROTECTION COMMISSION [567]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455B.105 and 455A.6, the Environmental Protection Commission has adopted amendments to Chapter 72, "Criteria For Approval," Iowa Administrative Code.

Notice of Intended Action was published in the April 13, 1994 Iowa Administrative Bulletin as ARC 4749A. Six public hearings were held and extensive comments were received supporting and opposing the proposed rules. A responsiveness summary was prepared addressing all the comments received during the public comment period. The responsiveness summary is available from the department and has been filed with the administrative rules coordinator.

The only change in the amendments from those published in the Notice of Intended Action is the addition of language clarifying that protected stream status does not prohibit tree maintenance or removal nor require fencing along protected streams.

The amendments were adopted by the Environmental Protection Commission at its _____ meeting and will become effective on _____. These amendments are intended to implement Iowa Code sections 455B.261, 455B.262, 455B.263, 455B.264, and 455B.275.

ITEM 1. Amend paragraph 72.2(1)"d." as follows:

d. *Protected streams.* For protected streams no channel changes will be allowed, because of actual or potential significant adverse effects on fisheries, water quality, flood control, flood plain management, wildlife habitat, soil erosion, public recreation, the public health welfare and safety, compatibility with the state water plan, rights of other landowners, and other factors relevant to the control, development, protection, allocation and utilization of the stream. Protected stream status does not prohibit bank stabilization measures; tree maintenance or removal; maintenance or installation of tile outlets; machinery crossings, including concrete drive throughs and bridges; boat or canoe ramps; or other structures permitted by the department; nor restrict riparian access to the protected stream for such uses as livestock watering or grazing. Protected stream status does not affect current cropping practices or require the establishment or maintenance of buffer strips, filter strips or fences along protected streams.

ITEM 2. Amend subrule 72.31(3) as follows:

72.31(3) Protected stream channel change variance. The department may grant variances to the prohibition of channel changes on protected stream for those cases listed in 72.31(2)"b", and "c", and "d" but such variances will be with provisions for mitigation of environmental damage.

ITEM 3. Add new rule 567--72.32 as follows:

567--72.32(455B) *Protected stream information.* The following describes the variance procedure and the relation of hydrologically connected streams to protected streams.

72.32(1) *Protected streams variance procedure.* The variance shall be requested as part of the permit application and review process provided for in rules 70.3 through 70.5 and decisions on the variance request may be appealed in accordance with rule 70.6. ~~If the applicant is denied a permit to channelize a protected stream, the applicant may appeal to the Environmental Protection Commission. The appeal will normally be heard by an Administrative Law Judge but the applicant may request that the Commission hear the appeal directly. If a proposed decision of an Administrative Law Judge would affirm the denial of the permit, the applicant may appeal the Administrative Law Judge's decision to the Commission. If, on appeal, the Commission affirms the denial of the permit, the applicant may appeal to the District Court.~~

72.32(2) *Hydrologically connected streams.* Streams or waters that are hydrologically connected to protected streams are not protected streams unless specifically listed as protected stream in 72.50(2). The Environmental Protection Commission considers the streams and waters that are hydrologically connected to streams proposed to become protected streams as one of the factors in the decision making process. Subrule 72.51(7) list the other factors that affect the decision.

72.32(3) *Protected stream activities.* Protected stream status does not prohibit bank stabilization measures; maintenance or installation of tile outlets; machinery crossings, including concrete drive throughs and bridges; boat or canoe ramps; or other structures permitted by the department; nor restrict riparian access to the protected stream for such uses as livestock watering or grazing. Protected stream status does not affect current cropping practices or require the establishment or maintenance of buffer strips, filter strips, or fences along protected streams except as may be required to mitigate environmental damage associated with a channel change on a protected stream.

ITEM 4. Amend subrule 72.50(1) as follows:

72.50(1) *Protected streams defined.* Protected stream shall include: All streams listed in 72.50(1); and other streams designated as protected streams pursuant to the procedures of 72.51(455B), which upon designation will be listed in 72.50(2). Streams hydrologically connected to protected streams are not protected streams unless specifically listed as protected streams in 72.50(2).

Date _____

Larry J. Wilson, Director

(A copy of the Responsiveness Summary is on file in the department's Records Center)

Mr. Stokes explained that this is the rule that clarifies the variance provisions and intent of the rule negotiated with legislative representation. The rule that listed additional streams to be protected was on 70-day delay and the delay period expired without any action being taken by the General Assembly, so that rule has already gone into effect.

Chairperson Siebenmann pointed out the following considerations mentioned in the comment summary and related that the Commission may want to review them at some point in time: 1) a public notice be given before a variance is granted; 2) more education regarding programs over which the Commission has responsibility be provided; 3) programs to provide funding for streambank protection; and 4) publicity regarding agricultural efforts to conserve resources and make it better known. She noted that these were some areas the Commission was asked to look at.

Motion was made by Charlotte Mohr to approve Final Rule--Chapter 72, Protected Stream Variance Criteria. Seconded by William Ehm.

William Ehm commented that throughout the course of the hearings some people felt that each individual landowner along the streams should be notified of the action being taken, and he inquired if there were suggestions as to a better way of notifying people about what is happening.

Mr. Stokes replied that staff would be open to any comments or suggestions for better ideas on the notification process.

Verlon Britt asked if this will satisfy the legislators concerns.

Mr. Stokes stated that it will satisfy some of them and others do not want protected streams.

William Ehm stated that it was sort of a mixed bag and they initially wanted three items addressed, and those were subsequently addressed. He added that one of the legislators was in favor of not having any protected stream classification at all in the state. Basically, the only thing that changed was the addition of the variance. The remaining portion of the rules were simply clarified.

Vote on Commissioner Mohr's motion to approve the Protected Streams Rule carried unanimously.

APPROVED AS PRESENTED

FINAL RULE--CHAPTER 103 AND 111, LANDFILL FINANCIAL RESPONSIBILITY

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Commission will be asked to approve for final adoption the attached rule which will require municipal solid waste landfills to obtain financial assurance to assure funding is available for landfill closure, 30 years post closure care, and corrective action.

A public hearing was held in the Wallace Building Auditorium at 1.00 p.m. on April 6, 1994. Thirteen persons attended the hearing. A total of 52 oral and written comments were received from twelve commentors during the comment period. A summary of each comment, a discussion of each comment, and the recommended proposed rule change is presented in the attached Responsiveness Summary.

No major substantive revisions were made to the proposed rule resulting from the public comments. There were many editorial and wording changes. Major comments pertained to the ten year pay-in period for the Trust Fund and the 30 year post closure period. Those comments are addressed in the Responsiveness Summary.

ENVIRONMENTAL PROTECTION COMMISSION

Adopted and Filed

Pursuant to Iowa Code 455B.304, the Environmental Protection Commission proposes to adopt amendments to Chapter 103 "Sanitary Landfills", and add a new Chapter 111 "Financial Assurance Requirements for Municipal Solid Waste Landfills".

In 1987, the General Assembly amended Chapter 455B to require operators of sanitary disposal projects to have financial assurance instruments. Chapter 455B.304 directs the commission to adopt rules which establish financial assurance standards and requirements and which establish minimum levels of financial responsibility for sanitary disposal projects. In accordance with 455B.306, "a person operating or proposing to operate a sanitary disposal project shall provide a financial assurance instrument to the department prior to initial approval of a permit or renewal of a permit for an existing or expanding facility beginning July 1, 1988." As a result of the amendments which established the requirements for disposal projects to demonstrate financial responsibility, the existing rules in Chapter 103 must be amended to require municipal solid waste landfills to obtain financial assurance, and Chapter 111 must be added to identify acceptable financial assurance instruments.

A public hearing was held on April 6, 1994 in Des Moines. Thirteen persons attended the hearing. A total of 52 oral and written comments were received at the hearing and during the comment period. No major revisions were made to the proposed rule resulting from the public's comments. There were many editorial and wording type changes.

The amendment and new rule may economically impact small businesses.

The following amendment and new rule are adopted:

ITEM 1. Amend 567--103.2(455B) by adding the following new subrule:

103.2(16) Financial Assurance. All municipal solid waste landfills must comply with the financial assurance requirements specified in 567--Chapter 111.

ITEM 2. Add the following new chapter:

CHAPTER 111

FINANCIAL ASSURANCE REQUIREMENTS FOR MUNICIPAL SOLID WASTE LANDFILLS

567--111.1(455B) Purpose. The purpose of this chapter is to implement Iowa Code sections 455B.304(8) and 455B.306(8) by providing the criteria for establishing financial assurance for closure, post closure care and corrective action at municipal solid waste landfills.

567--111.2(455B) Applicability. The requirements of this chapter apply to owners and operators of all municipal solid waste landfills (MSWLF) except owners or operators who are state or federal government entities whose debts and liabilities are the debts and liabilities of a state or the United States.

567--111.3(455B) Financial assurance for closure.

111.3(1) The owner or operator must have a detailed written estimate, in current dollars, of the cost of hiring a third party to close the MSWLF in accordance with the closure plan as required by 567--103.2(13). Such estimate must be available at any time during the active life of the landfill. The owner or operator must notify the department that the estimate has been placed in the facility's official files.

a. The cost estimate must equal the cost of closing the MSWLF at any time during the active life of the facility when the extent and manner of its operation would make closure the most expensive.

b. During the active life of the MSWLF the owner or operator must annually adjust the closure cost estimate for inflation.

c. The owner or operator must increase the closure cost estimate and the amount of financial assurance provided if changes to the closure plan or MSWLF conditions increase the maximum cost of closure at any time during the remaining active life of the facility. The amount of the financial assurance must be increased to the level of the latest estimate each time the amount of the estimate is 10 percent or more above the amount of financial assurance provided.

d. The owner or operator may reduce the amount of financial assurance for closure if the most recent estimate of the maximum cost of closure at any time during the active life of the facility is less than the amount of financial assurance currently provided. The owner or operator must notify the department that the justification for the reduction of the closure cost estimate and the amount of financial assurance has been placed in the facility's official files.

111.3(2) The owner or operator of an MSWLF must establish financial assurance for closure in accordance with the criteria in this chapter. The owner or operator must provide continuous coverage for closure until released from this requirement by demonstrating compliance with 567--subrule 103.2(13).

567--111.4(455B) Financial assurance for post closure care.

111.4(1) The owner or operator must have a detailed written estimate, in current dollars, of the cost of hiring a third party to conduct post closure care for the MSWLF in compliance with the plan developed pursuant to IAC 567-102.12(10). The cost estimate must account for the total cost of conducting postclosure care as described in the plan, for the entire postclosure care period. The owner or operator must notify the department that the estimate has been placed in the facility's official files.

a. The cost estimate for postclosure care must be based on the most expensive costs of that care during the entire post-closure care period.

b. During the active life of the MSWLF and during the post-closure care period, the owner or operator must annually adjust the postclosure cost estimate for inflation.

c. The owner or operator must increase the estimate and the amount of financial assurance provided if changes in the post-closure plan or MSWLF conditions increase the maximum cost of postclosure care. The amount of the financial assurance must be increased to the level of the latest estimate each time the amount of the estimate is equal to or greater than 10 percent more than the amount of financial assurance provided.

d. The owner or operator may reduce the estimate and the amount of financial assurance if the cost estimate exceeds the maximum cost of postclosure care remaining in the postclosure care period. The owner or operator must notify the department that the justification for the reduction of the cost estimate and the amount of financial assurance has been placed in the facility's official files.

111.4(2) The owner or operator of an MSWLF must establish financial assurance for the costs of postclosure care required by 567--subrule 102.12(10). The owner or operator must provide continuous coverage for postclosure care until released from this requirement by demonstrating compliance with the postclosure plan and the closure permit.

567--111.5(455B) Financial assurance for corrective action.

111.5(1) An owner or operator required to undertake corrective action pursuant to 567--subrules 103.2(4) through 103.2(9), inclusive, must have a detailed written estimate, in current dollars, of the cost of hiring a third party to perform the required corrective action.

The estimate must account for the total costs of the activities described in the approved corrective action plan for the entire corrective action period. The owner or operator must notify the department that the estimate has been placed in the facility's official files.

a. The owner or operator must annually adjust the estimate for inflation until the corrective action program is completed.

b. The owner or operator must increase the cost estimate and the amount of financial assurance provided if changes in the corrective action program or MSWLF conditions increase the maximum costs of corrective action. The amount of financial assurance must be increased to the

level of the latest estimate each time the amount of the estimate is equal to or greater than 10 percent more than the amount of financial assurance provided.

c. The owner or operator may reduce the amount of the cost estimate and the amount of financial assurance provided if the estimate exceeds the maximum remaining costs of the remaining corrective action. The owner or operator must notify the department that the justification for the reduction of the cost estimate and the amount of the financial assurance has been placed in the facility's official files.

111.5(2) The owner or operator of an MSWLF required to undertake a corrective action program must establish financial assurance for the most recent corrective action program by one of the mechanisms prescribed in 567--111.6(455B), except 111.6(4). The owner or operator must provide continuous coverage for corrective action until released from financial assurance requirements by demonstrating compliance with the following:

a. Upon completion of the remedy, the owner or operator must notify the director within 14 days that a certification that the remedy has been completed in compliance with the requirements of the department has been placed in the facility's official files. The certification must be signed by the owner or operator and by a qualified groundwater scientist.

b. When, upon completion of the certification, the owner or operator determines that the corrective action remedy has been completed in accordance with the requirements of the department, the owner or operator shall be released from the requirements for financial assurance for corrective action.

567--111.6(455B) Allowable financial assurance mechanisms. The mechanisms used to demonstrate financial assurance must ensure that the funds necessary to meet the costs of closure, postclosure care, and corrective action for known releases will be available whenever they are needed. Owners or operators must choose from options in subrules 111.6(1) to 111.6(10).

111.6(1) Trust fund.

a. An owner or operator may demonstrate financial assurance for closure, postclosure care and corrective action, whichever is applicable, by establishing a trust fund which conforms to the requirements of this subrule. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. A copy of the trust agreement must be placed in the facility's official files.

b. Payments into the trust fund must be made annually by the owner or operator for ten years or over the remaining life of the MSWLF, whichever is shorter, in the case of a trust fund for the closure or postclosure care, or over one-half of the estimated length of an approved corrective action program in the case of a response to a known release. This is referred to as the "pay-in period."

c. For a trust fund used to demonstrate financial assurance for closure or postclosure care, the first payment into the fund must be at least equal to the current cost estimate divided by the number of years in the pay-in period as defined in 111.6(1)"b". The amount of subsequent payments must be determined by the following formula:

$$\text{Payment} = \frac{\text{CE} - \text{CV}}{n}$$

Y

where CE is the current updated cost estimate for closure or postclosure care, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

d. For a trust fund used to demonstrate financial assurance for corrective action, the first payment into the trust fund must be at least one-half of the current cost estimate divided by the number of years in the corrective action pay-in period as defined in 111.6(1)"b". The amount of subsequent payments must be determined by the following formula:

$$\text{Payment} = \frac{\text{RB} - \text{CV}}{\text{Y}}$$

where RB is the most recent estimate of the required trust fund balance, which is the total cost that will be incurred during the second half of the corrective action period, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

e. The initial payment into the trust fund must be made before the initial receipt of waste or before April 9, 1995, whichever is later, in the case of closure and postclosure care, or no later than 120 days after the corrective action plan has been approved by the department.

f. If the owner or operator establishes a trust fund after having used one or more alternate mechanisms, the initial payment into that trust fund must be at least the amount that the fund would contain if the trust fund were established initially and annual payments made as required by this subrule.

g. The owner or operator, or other person authorized to conduct closure, postclosure care, or corrective action activities may request reimbursement from the trustee for these expenditures. Requests for reimbursement will be granted by the trustee only if sufficient funds are remaining to cover the remaining costs of closure, postclosure care, or corrective action, and if justification and documentation of the cost is placed in the facility's official files. The owner or operator must notify the department that documentation of the justification for reimbursement has been placed in the facility's official files and that reimbursement has been received.

111.6(2) Surety bond.

a. An owner or operator may demonstrate financial assurance for closure or postclosure care by obtaining a payment or performance surety bond which conforms to the requirements of this subrule. An owner or operator may demonstrate financial assurance for corrective action by obtaining a performance bond which conforms to the requirements of this subrule. The bond must be effective before the initial receipt of waste or before April 9, 1995, whichever is later, in the case of closure and postclosure care, or no later than 120 days after the corrective action plan has been approved by the department. The owner or operator must notify the department that a copy of the bond has been placed in the facility's official files. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

b. The penal sum of the bond must be in an amount at least equal to the current closure, postclosure or corrective action cost estimate, whichever is applicable.

c. Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

d. The owners or operators must establish a standby trust fund. The standby trust fund must meet the requirements of subrule 111.6(1) except the requirements for initial payment and subsequent annual payments specified in 111.6(1)"b" through "f".

e. Payment made under the terms of the bond will be deposited by the surety directly into the standby trust fund. Payments from the trust fund must be approved by the trustee.

f. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner and operator and to the department 120 days in advance of the cancellation. If the surety cancels the bond, the owner or operator must obtain alternate financial assurance as specified in this subrule.

111.6(3) Letter of credit.

a. An owner or operator may demonstrate financial assurance for closure, postclosure care, and corrective action, whichever is applicable, by obtaining an irrevocable standby letter of credit which conforms to the requirements of this subrule. The letter of credit must be effective before the initial receipt of waste or before April 9, 1995, whichever is later, in the case of closure and postclosure care, or no later than 120 days after the corrective action plan is approved by the department. The owner or operator must notify the department that a copy of the letter of credit has been placed in the facility's official files.

The issuing institution must be an entity which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency.

b. A letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the name and address of the facility, and the amount of funds assured, must be included with the letter of credit in the facility's official files.

c. The letter of credit must be irrevocable and issued for a period of at least one year in an amount at least equal to the current cost estimate for closure, postclosure or corrective action, whichever is applicable. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless the issuing institution has canceled the letter of credit by certified mail to the owner or operator and the department 120 days in advance of cancellation. If the letter of credit is canceled by the issuing institution, the owner or operator must obtain alternate financial assurance.

111.6(4) Insurance.

a. An owner or operator may demonstrate financial assurance for closure and postclosure care by obtaining insurance which conforms to the requirements of this subrule. The insurance must be effective before the initial receipt of wastes or before April 9, 1995, whichever is later. At the minimum, the insurer must be authorized to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in Iowa. The owner or operator must notify the department that a copy of the insurance policy has been placed in the facility's official files.

b. The closure or postclosure care insurance policy must guarantee that funds will be available to close the MSWLF whenever final closure occurs or to provide postclosure care when the postclosure period begins. The policy must also guarantee that once closure or postclosure care begins, the insurer will be responsible for the paying out of funds to the owner or operator or

other person authorized to conduct the closure or postclosure care, up to an amount equal to the face amount of the policy.

c. The insurance policy must be issued for a face amount at least equal to the current cost estimate for closure or postclosure care, whichever is applicable. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

d. ~~An owner or operator, or any other person authorized to conduct closure or postclosure care,~~ may receive reimbursements for those expenditures. Requests for reimbursement will be granted by the insurer only if the remaining value of the policy is sufficient to cover the remaining costs of closure or post-closure care, and if justification and documentation of the cost is placed in the facility's official files. The owner or operator must notify the department that the documentation of the justification for reimbursement has been placed in the facility's official files and that reimbursement has been received.

e. Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided that such consent is not unreasonably refused.

f. The insurance policy must provide that the insurer may not cancel, terminate or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may cancel the policy by sending notice of cancellation by certified mail to the owner and operator and to the department 120 days in advance of cancellation. If the insurer cancels the policy, the owner or operator must obtain alternate financial assurance required by this subrule.

g. For insurance policies providing coverage for postclosure care, commencing on the date that liability to make payment pursuant to the policy accrues, the insurer will thereafter annually increase the face amount of the policy. Such increase must be equivalent to the face amount of the policy, less any payments made, multiplied by an amount equivalent to 85 percent of the most recent investment rate or of the equivalent coupon-issue yield announced by the U.S. Treasury for 26-week treasury securities.

111.6(5) Self-insurance.

a. An owner or operator may demonstrate financial assurance for closure, postclosure care and corrective action, whichever is applicable, by demonstrating the ability to pass the financial test as specified in this subrule. The demonstration must be placed in the facility's official files before the initial receipt of waste or before April 9, 1995, whichever is later, in the case of closure and post closure care, or no later than 120 days after the corrective action plan has been approved by the department.

b. An owner or operator may demonstrate financial assurance by maintaining the following in the facility's official files:

(1) Unsubordinated debentures with market value equal to or exceeding the sum of the current closure, postclosure or corrective action estimates, whichever is applicable.

(2) A letter signed by the chief financial officer certifying that the owner or operator passes all of the following tests:

1. (total liabilities)

(net worth) = less than 2.0

2. $\frac{(\text{cash flow})}{(\text{total liabilities})}$ = greater than 0.1

3. $\frac{(\text{current assets})}{(\text{current liabilities})}$ = greater than 1.5

4. Net working capital and tangible net worth at least six times the current cost estimates for the facility

5. Tangible net worth of at least \$10,000,000 and

6. Assets in the United States equal to at least 90 percent of the owner's or operator's total assets or at least six times the current cost estimates for all owner operated facilities.

(3) As an alternative to 111.6(5)"b"(2) the owner or operator may substitute a current rating for its most recent bond issue which must be of AAA, AA, A or BBB as issued by Standard & Poor's or Aaa, Aa, A or Baa as issued by Moody's and the owner or operator shall obtain a special report from an independent certified public accountant certifying the validity of:

1. The latest financial statement;
2. The data used to pass the financial test; and
3. The valuation of the bonds submitted as collateral.

(4) A copy of the owner's or operator's financial statements for the latest completed fiscal year with an independent certified public accountant's report on examination of the financial statements.

c. An owner or operator may demonstrate financial assurance by obtaining a written corporate guarantee from a parent corporation provided the following conditions are met:

(1) The parent corporation must be the entity that issues the bonds that serve as the basis for the self-insurance.

(2) The guarantor must meet the requirements for facility owners or operators in this subrule.

(3) The terms of the corporate guarantee must assure that:

- The guarantor will perform closure, postclosure or corrective action in accordance with the appropriate plan or permit if the owner or operator fails to do so when required, or the guarantor may establish a trust for that purpose in the name of the owner or operator.

- The guarantee remains in affect for at least 120 days after notifying the owner or operator of the intent to cancel the guarantee. The guarantor is responsible for obtaining a receipt from the owner or operator verifying the delivery of the notice to cancel.

- If, subsequent to receiving the notice to cancel, the owner or operator fails to provide alternate financial assurance as specified in this rule, the guarantor shall provide alternate financial assurance in the name of the owner or operator.

- The bonds used to demonstrate financial assurance are readily salable in secondary bond markets and their market value equals or exceeds the current cost estimates for closure, postclosure or corrective action, whichever is applicable.

d. If the sum of the current cost estimates for closure, postclosure care, and corrective action, whichever is applicable, changes, the owner or operator shall compare the new estimate with the most recent annual valuation of the bonds held pursuant to this subrule. If the total market value of the bonds is less than the amounts of the new estimates, the owner or operator shall, within 60

days after the change in the cost estimates, send notice to the director that other bonds are maintained to make up the deficiency or the owner or operator shall establish other financial assurance mechanisms as specified in this section. If other bonds are relied upon, the notice to the director must be accompanied by an independent certified public accountant's report that the new issues have a market value that equals or exceeds the amount of the deficiency.

e. If during the operating life of the facility, the market value of the bonds held pursuant to this section exceeds the sum of the current cost estimates by an amount greater than the market value of any single bond, the owner or operator may decrease the amount of the bonds maintained by the excess amount.

f. The use of self-insurance is not allowed if:

- (1) The accountant's report required by this subrule includes an adverse opinion or a disclaimer of opinion;
- (2) The report includes qualifications that relate to the numbers that are used in the financial test; or
- (3) In light of the qualifications, the owner or operator has failed to demonstrate that it meets the financial test.

111.6(6) Bond rating test.

a. An owner or operator may demonstrate financial assurance for closure, postclosure and corrective action, whichever is applicable, by having a currently outstanding issue or issues of general obligation bonds of \$1 million or more, excluding refunded obligations, with an unenhanced Moody's rating of Aaa, Aa, A, or Baa, or an unenhanced Standard & Poor's rating of AAA, AA, A, or BBB. The demonstration must be placed in the facility's official files before the initial receipt of waste or before April 9, 1995, whichever is later, in the case of closure and post-closure care, or no later than 120 days after the corrective action plan has been approved by the department.

b. The owner or operator must maintain in the facility's records file:

- (1) A copy of a dated bond rating certification signed by a representative from the bond rating agency.
- (2) A copy of a letter signed by the chief financial officer of the owner or operator or guarantor certifying compliance with the bond rating test.

111.6(7) Local government guaranty. The owner or operator of a MSWLF may demonstrate financial assurance for closure, postclosure and corrective action, whichever is applicable, by obtaining a written guaranty certifying compliance with the following:

a. The guarantor is a local government having a substantial governmental relationship with the owner and operator pursuant to and in furtherance of the objectives of an agreement between said parties entered into under Iowa Code chapter 28E.

b. The guaranty is issued as an act incident to that relationship.

c. A local government acting as the guarantor must:

- (1) Demonstrate that it meets the bond rating test requirement of this rule and deliver a copy of the chief financial officer's letter described in rule 111.6(6)b(2) to the owner or operator of the MSWLF; or

- (2) Demonstrate that it meets the local government dedicated fund test of this rule.

d. The terms of the guaranty must provide:

(1) If the owner or operator of a facility covered by the guaranty fails to perform closure or postclosure care or corrective action in accordance with the appropriate plan or permit whenever required to do so, the guarantor shall do so or establish a standby trust fund in the name of the owner or operator.

(2) The guaranty remains in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and the director. Cancellation may not occur, however, during 120 days beginning on the date of receipt of the notice of cancellation by the director, as evidenced by the return receipt.

(3) If the owner or operator fails to provide alternate financial assurance as specified in this rule, the guarantor shall provide alternate financial assurance in the name of the owner or operator.

e. The owner or operator must maintain the guaranty in the facility's official files. The guaranty must be placed in the facility's official files before the initial receipt of waste or before April 9, 1995, whichever is later, in the case of closure and post-closure care, or no later than 120 days after the corrective action plan has been approved by the department.

111.6(8) Local government dedicated fund.

The owner or operator of a publicly owned MSWLF or local government serving as a guarantor may demonstrate financial assurance for closure, postclosure and corrective action, whichever is applicable, by establishing a dedicated fund or account that conforms to the requirements of this subrule. A dedicated fund will be considered eligible if it meets one of the following requirements:

a. The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance, or order to pay for closure, postclosure and corrective action costs, whichever is applicable, arising from the operation of the MSWLF and is funded for the full amount of coverage or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provided the remaining coverage; or

b. The fund is dedicated by state constitutional provisions, or local government statute, charter, ordinance, or order as a reserve fund and is funded for no less than the full amount of coverage or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provided the remaining coverage.

c. Payments into the dedicated fund must be made annually by the owner or operator for ten years or over the remaining life of MSWLF, whichever is shorter, in the case of a dedicated fund for the closure or postclosure care, over one-half of the estimated length of an approved corrective action program in the case of a response to a known release. This is referred to as the "pay-in period." The initial payment into the dedicated fund must be made before the initial receipt of waste or before April 9, 1995, whichever is later, in the case of closure and post closure care, or no later than 120 days after the corrective action plan has been approved by the department.

d. For a dedicated fund used to demonstrate financial assurance for closure and postclosure care, the first payment into the fund must be at least equal to the current cost estimate, divided by the number of years in the pay-in period as defined in this subrule. The amount of subsequent payments must be determined by the following formula:

$$\text{Payment} = \frac{\text{TF}-\text{CF}}{\text{N}}$$

Y

where TF is the total required financial assurance for the owner or operator, CF is the current amount in the fund, and Y is the number of years remaining in the pay-in period, and

e. For a dedicated fund used to demonstrate financial assurance for corrective action, the first payment into the dedicated fund must be at least one-half of the current cost estimate, divided by the number of years in the corrective action pay-in period as defined in this subrule. The amount of subsequent payments must be determined by the following formula:

$$\text{Payment} = \frac{\text{RB} - \text{CF}}{\text{Y}}$$

where RB is the most recent estimate of the required dedicated fund balance, which is the total cost that will be incurred during the second half of the corrective action period, CF is the current amount in the dedicated fund, and Y is the number of years remaining in the pay-in period.

111.6(9) Use of multiple financial mechanisms. An owner or operator may satisfy the requirements of this rule by establishing more than one financial mechanism per facility. The mechanisms must be a combination of those mechanisms outlined in this chapter and must provide financial assurance for an amount at least equal to the current cost estimate for closure, postclosure or corrective action, whichever is applicable. The financial test and a guarantee provided by a corporate parent, sibling or grandparent may not be combined if the financial statements of the two firms are consolidated.

111.6(10) Use of one mechanism for multiple facilities.

An owner or operator may satisfy the requirements of this rule for multiple MSWLFs by the use of one mechanism if the owner or operator ensures that the mechanism provides financial assurance for an amount at least equal to the current cost estimates for closure, postclosure and corrective action, whichever is applicable, for all MSWLFs covered.

111.6(11) The language of the mechanisms listed in this rule must ensure that the instruments satisfy the following criteria:

- a. The financial assurance mechanisms must ensure that the amount of funds assured is sufficient to cover the costs of closure, postclosure, and corrective action for known releases, whichever is applicable;
- b. The financial assurance mechanisms must ensure that funds will be available in a timely fashion when needed;
- c. The financial assurance mechanisms must be obtained by the owner or operator by April 9, 1995, or prior to the initial receipt of solid waste, whichever is later, and no later than 120 days after the corrective action remedy has been approved by the department until the owner or operator is released from the financial assurance requirements; and
- d. The financial assurance mechanisms must be legally valid, binding, and enforceable under Iowa law.

These rules are intended to implement Iowa Code sections 455B.304 and 455B.306.

Date _____

Larry J. Wilson, Director

(A copy of the Responsiveness Summary is on file in the department's Records Center)

Mr. Stokes presented a history of the development of these rules noting that in 1991 a set of rules were brought to the Commission. At that time, there were no federal rules that addressed financial responsibility for landfills. The Commission objected to those rules and suggested that the staff meet with a blue-ribbon panel which was to be headed by one of the Commissioners. That Commissioner resigned and the panel never came to pass. Subsequently, the federal government adopted Subtitle D, RCRA rules. Mr. Stokes related that a group of major stakeholders met with staff and helped to draft the rules before the Commission. He related that there is room for improvement but staff feel they are good enough to put into effect. The rules provide compliance with the base federal regulations. Mr. Stokes noted that after these rules are in place, staff could reconvene the group along with representatives of EPA and some of the commenters to discuss the issues that have been raised for additional consideration.

Discussion followed regarding the pay in period and community bonding issue, how the ten year period was developed, and the average life of a landfill.

Clark Yeager stated that he would like to see the pay in period coordinated with the expected life of a landfill.

Mr. Stokes indicated that that is an option that could be looked at, but he would like a base set of rules to work from. He reiterated that he would like to call the ad hoc group back together to work out some of these concerns.

Further discussion took place regarding disclaimers.

Motion was made by Charlotte Mohr to approve Final Rule--Chapter 103 and 111, Landfill Financial Responsibility. Seconded by Gary Priebe.

Rozanne King suggested an amendment requesting staff to meet with the ad hoc and come back with a report in a specified amount of time.

William Ehm commented that it is obvious that those are the people staff want to draw from and he does not feel an amendment is necessary.

Clark Yeager stated that he would like to have something back on this within six months.

Mr. Stokes related that a meeting with the ad hoc group will be held soon and refinements will be back before the Commission within the next several months.

Chairperson Siebenmann commended all who worked on the rules noting that it seems to be one of the most difficult and technical rules she has seen in quite awhile.

Vote on Commissioner Mohr's motion to approve the rules carried unanimously.

APPROVED AS PRESENTED

FINAL RULE--CHAPTER 134, REGISTRATION OF GROUNDWATER PROFESSIONALS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Commission will be asked to adopt as a final rule amendments to subrule 134.4. The proposed subrule gives conditions under which the department may suspend, revoke or deny the registration of a groundwater professional. This rule is intended to implement 1993 Iowa Acts, House File 644, section 10 that required the adoption of rules for the suspension and revocation of groundwater professional registration for good cause.

Public comments to the proposed amendment and the department's response are attached. Changes to the proposed rule have been made and are explained in the preamble to the rule.

ENVIRONMENTAL PROTECTION COMMISSION[567] Adopted and Filed

Pursuant to the Authority of the Iowa Code section 455G.18, the Environmental Protection Commission adopted, on June 20, 1994, an amendment to Chapter 134, "Registration of Groundwater Professionals." The amendment replaces rule 134.4.

1993 Iowa Acts, House File 644, section 10, required the adoption of rules for the suspension and revocation of groundwater professional registration for good cause. The amendment gives the conditions under which the department may suspend, revoke, or deny registration and the disciplinary procedures that will be followed. The Notice of Intended Action was published as ARC 4677A in the March 16, 1994 Iowa Administrative Code.

Comments received during the public hearing process included: wanting a "peer review" procedure for making decisions on disciplinary action; concern about disciplinary action being taken for submission of substandard, inaccurate, or incomplete Site Cleanup Reports; lack of a full contested case appeal process for reprimands; the need for disciplinary records to remain confidential until the end of the appeal process; wanting the decision on disciplinary action made by a registered groundwater professional; concern that the language in subrule 134.4(1) apply other professional standards solely to activities that would be considered those of a groundwater professional; and disciplinary action should not be based on failure to report contamination as provided in the new rule.

In response to the comments, the department has withdrawn the use of the reprimand as a sanction and will limit sanctions to suspension and revocation which have full appeal rights. The effectiveness of a reprimand did not justify implementation. Reference to the reprimand was

removed from the opening paragraphs in 134.4(3) and 134.4(4); paragraphs 134.4(4)"a" and "b"; and paragraph 134.4(5)"a." Paragraphs 134.4(4)"c" and 134.4(5)"c" were stricken.

Subrule 134.4(3), paragraph "c" has been modified to require giving written notice of contamination and reporting requirements to the party responsible for reporting contamination. The department does believe it has the implied authority to impose the duty of reporting contamination on the groundwater professional. The revised duty represents a balance which assures that the party legally responsible is aware of the contamination and the requirement to report.

Subrule 134.5(5), paragraph "a" has been revised to clarify that the division administrator will make the decision to impose disciplinary action based on the investigation and recommendations of the staff. Paragraph "d" that has been changed to paragraph "c" has been revised to clarify that "a decision imposing" revocation or denial is appealed and not a notice.

The word "restricted" has been added before "certified mail" in paragraph 134.4(5)"b" to clarify that the groundwater professional personally must receive the certified letter containing the sanctions.

No other changes were made to the proposed rule in response to comments. The authority to implement peer review board procedures is not included in the department's statutory authority. Discipline based on Site Cleanup Reports is done only after repeated incidents and at least one notice of deficiency. The department believes that the disciplinary records are public records and cannot be treated as confidential. The department does intend to apply professional standards from other licensing authorities to activities that fall within the definition of a groundwater professional. A person who qualifies as a groundwater professional by virtue of certification by a professional organization or licensing authority, suspension or revocation of that status can form the basis for disciplinary action as a groundwater professional.

This amendment is intended to implement Iowa Code section 455G.18.

ITEM 1. Strike current rule 567--134.4 (455G) and replace it with the following:

567--134.4(455G) Suspension, revocation and denial of registration.

134.4(1) GENERAL POLICY. It is the policy of the department to enforce standards of professional and ethical conduct which are generally accepted within the professions which qualify persons for registration in Iowa as a groundwater professional. The department intends to rely on written standards of professional and ethical conduct and competency which are applicable to persons who qualify for registration by virtue of certification by or membership in a professional organization, or state licensure as provided in Iowa Code section 455G.18(2).

It is the policy of the department to investigate and enforce standards of conduct by registered groundwater professionals which fall within the scope of their professional relationships with the department, their clients and other state regulatory agencies including the Iowa Comprehensive Petroleum Underground Storage Tank Board and their agents.

134.4(2) Lack of qualification. The department may suspend, revoke or deny registration as a groundwater professional for any of the following reasons:

- a. A material misstatement of fact in an application for registration.
- b. Failure to provide the fee for registration.
- c. Loss of license, certification, or registration necessary to meet the registration requirements in subrule 134.2(2).
- d. Insufficient proof of qualifications required under subrule 134.2(2).

134.4(3) *Discipline based on a single act or omission.* The department may suspend, revoke or deny registration based on substantial evidence of a single act or failure to act. The severity of the sanction may be based on the gravity of the act or omission and on the degree of culpability such as whether it was negligence, knowing, willful, or with such a degree of reckless disregard as to equate with intentional conduct. Single acts or omissions that may be grounds for discipline include but are not limited to the following:

- a. Fraudulent omissions or misstatements of material fact in any reports, correspondence or communications with the department.
- b. Violation of an ethical standard which the person knew or should have known and which results in or reasonably could have resulted in material consequences.
- c. Failure to report the presence of contamination to the parties reasonably believed to be responsible for reporting the contamination to the department as provided in 567-Chapter 131 and 567-135.6.
- d. Knowingly making a material false statement, representation or certification on any application, record, report, or document required to be maintained or submitted by department rule or which is voluntarily submitted to the department.
- e. Gross incompetence in the performance of groundwater professional services and corrective action.

134.4(4) *Discipline based on repeated acts or omissions.* The department may suspend, revoke or deny registration, based on substantial evidence of repeated acts or omissions which, when taken together indicate a lack of competency, professionalism, ethical conduct, or adherence to standards of performance generally expected by the profession. The severity of the sanction may be based on the gravity of the acts or omissions and the degree of culpability. Disciplinary sanctions under this subrule will not be applied without providing the person with at least one written notice of the deficiency and a written warning that future repetition may result in discipline. Conduct or omissions which may be a basis for discipline include but are not limited to the following:

- a. Repeated incidents of substandard field investigation may result in suspension or revocation.
- b. Repeated incidents of substandard, inaccurate or incomplete site cleanup reports and failure to follow site cleanup report instructions may result in suspension or revocation.
- c. Conduct warranting a sanction after prior suspension shall result in a more severe sanction.

134.4(5) *Disciplinary Procedure.*

a. Prior to issuance of a final department action imposing a disciplinary sanction of suspension, revocation or denial of registration, the department shall conduct such lawful investigation as it deems necessary to substantiate material facts sufficient to warrant a disciplinary sanction. The decision to impose a disciplinary sanction shall be made by the Administrator of the Environmental Protection Division.

b. Written notice of a sanction shall be sent by restricted certified mail to the person against whom the sanction is imposed. The notice shall provide a brief explanation of the facts relied upon and the sanction to be imposed. The notice shall inform the recipient of applicable appeal rights.

c. A person may appeal a decision imposing a suspension, revocation or denial of registration within thirty days of receipt of the notice. Upon timely receipt of the notice of appeal, contested case procedures, including informal settlement, shall apply as provided in 561 I.A.C. Chapter 7. In accordance with 561 I.A.C. 7.5(2), the department shall initiate pleading by the filing of a petition.

d. Notwithstanding subrule 561 I.A.C. 7.15(7), the sanction imposed shall not take effect until after a contested case hearing and issuance of a proposed decision. If a timely appeal has not been filed,

the sanction is effective after thirty days from receipt of the notice. A party may request stay of the sanction, as provided in 561 I.A.C. 7.15(7), after issuance of a proposed decision.

(A copy of the Responsiveness Summary is on file in the department's Records Center)

Mr. Stokes briefly explained the rules.

Motion was made by William Ehm to approve Final Rule--Chapter 134, Registration of Groundwater Professionals. Seconded by Rozanne King. Motion carried unanimously.

APPROVED AS PRESENTED

NOTICE OF INTENDED ACTION--CHAPTER 23, OPEN BURNING

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Commission will be asked to approve the attached Notice of Intended Action which proposes amendments to the Department's air quality rules relating to open burning. These amendments incorporate changes to the open burning exemptions in subrule 23.2(3) required by House File 2190 and clarify the intent of certain exemptions regarding open burning in rural settings.

Notice of Intended Action

Pursuant to the authority of Iowa Code section 455B.133 and House File 2190 (1994), the Environmental Protection Commission gives Notice of Intended Action to amend Chapter 23, "Emission Standards for Contaminants," Iowa Administrative Code.

These amendments incorporate changes to the open burning exemptions in subrule 23.2(3) required by House File 2190 (1994) and clarify the intent of certain exemptions regarding open burning in rural settings.

These rules may impact small businesses.

Any interested person may make written suggestions or comments on the proposed rules on or before _____. Written comments should be directed to Christine Spackman, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand, Des Moines, Iowa 50319-0034, FAX (515)281-8895.

A public hearing will be held on _____ at _____ in _____, at which time comments may be submitted orally or in writing.

These rules are intended to implement Iowa Code section 455B.133.

The following rules are proposed.

ITEM 1. Amend paragraph 567--23.2(3)"d" as follows:

d. Landscape waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas at least one-fourth mile from any ~~inhabited building~~ inhabited by other than the land owner conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

ITEM 2. Amend paragraph 567--23.2(3)"g" as follows:

g. Training fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that written notification is postmarked or delivered to the director at least ten working days before such action commences. Notification shall be made in accordance with 40 CFR Section 61.145, "Standard for demolition and renovation", of the asbestos National Emission Standards for Hazardous Air Pollutants, as amended through March 5, 1992. ~~All asphalt roofing and a~~Asbestos-containing materials shall be removed prior to the training fire. Asphalt shingles may be burned in a training fire only if the notification to the director contains testing results indicating that none of the layers of the asphalt shingles contain asbestos. Each fire department shall be permitted to set two fires per year as allowed under this paragraph.

ITEM 3. Amend paragraph 567--23.2(3)"h" as follows:

h. Paper or plastic pesticide containers and seed corn bags. The disposal by open burning of paper or plastic pesticide containers (except those formerly containing organic forms of beryllium, selenium, mercury, lead, cadmium or arsenic) and seed corn bags resulting from farming activities occurring on the premises. Such open burning shall be limited to areas located at least one-fourth mile from any ~~inhabited building~~ inhabited by other than the land owner conducting the open burning, livestock area, wildlife area, or water source. The amount of paper or plastic pesticide containers and seed corn bags that can be disposed of by open burning shall not exceed one day's accumulation or 50 pounds, whichever is less. However, when the burning of paper or plastic pesticide containers or seed corn bags causes a nuisance, the director may take action to secure relocation of the burning operation. Since the concentration levels of pesticide combustion products near the fire may be hazardous, the person conducting the open burning should take precautions to avoid inhalation of the pesticide combustion products.

ITEM 4. Amend paragraph 567--23.2(3)"i" as follows:

i. Agricultural structures. The open burning of agricultural structures ~~outside of cities or towns~~, provided the open burning occurs on the premises at least one-fourth mile from any building inhabited by other than the land owner conducting the open burning, all chemicals and asphalt shingles are removed, burning is conducted only when weather conditions are favorable with respect to surrounding property, and permission from the local fire chief is secured in advance of the burning. Rubber tires shall not be used to ignite agricultural structures.

ITEM 5. Amend subrule 567--23.2(4) as follows:

23.2(4) Unavailability of exemptions in certain areas. Notwithstanding 23.2(2) and 23.2(3)"b," "d" ~~and "f,"~~ and "i," no person shall allow, cause or permit the open burning of trees or tree trimmings, residential or landscape waste or agricultural structures in the cities of:

Cedar Rapids, Marion, Hiawatha, Council Bluffs, Carter Lake, Des Moines, West Des Moines, Clive, Windsor Heights, Urbandale, and Pleasant Hill.

This rule is intended to implement Iowa Code section 455B.133.

Mr. Stokes reviewed the rules in detail.

Discussion followed in regard to burning shingles and also with separation distances.

Motion was made by Gary Priebe to approve Notice of Intended Action--Chapter 23, Open Burning. Seconded by Kathryn Murphy. Motion carried unanimously.

APPROVED AS PRESENTED

PETITION FOR DECLARATORY RULING ON RULE 23.1(3)"A"

Mike Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

Attached is a Petition for Declaratory Ruling regarding the applicability of federal NESHAPS regulations of asbestos removal, to "owners and operators", as provided in 40 CFR 61.145(a), adopted by reference in rule 567 IAC 21.1(3)"a". The Department proposes to rule on a small portion of the requests, and decline to rule on most of the requests, for the reasons stated in the attached Partial Ruling and Refusal to Rule. If the Petitioner appeals or the Commission moves to review it on its own, the Commission may consider this matter and approve, reverse, or modify the Director's ruling, or request more information. If there is no appeal, or motion by the Commission, the ruling and refusal become final. In this sense, this item is similar to the Commission's review of a proposed Administrative Law Judge's decision.

(Petition is shown on the the following 12 pages)

IOWA DEPARTMENT OF NATURAL RESOURCES**DECLARATORY RULING**

IN THE MATTER OF:PETITION FOR DECLARATORY
RULING REGARDING 40 CFR 61.145(a))
AS ADOPTED BY REFERENCE AT)
567 I.A.C. 23.1(3))PARTIAL REFUSAL TO RULE
AND PARTIAL RULING**I. SUMMARY**

The Petitioner, Stephen J. Intlekofer, filed a Petition for Declaratory Ruling on May 4, 1994, and an Amendment to that Petition for Declaratory Ruling on May 13, 1994. Petitioner has asked that the Department provide a binding interpretation of 40 CFR 61.145(a), as adopted by reference at 567 Iowa Administrative Code 23.1(3). Petitioner has presented 7 specific questions regarding 40 CFR 61.145(a).

The Petitioner has presented the following set of facts, upon which his questions are based: Owner is demolishing a building from which asbestos must first be removed, and Owner intends to rebuild on the site. Owner has retained a General Contractor and an Architect for the building project, and Owner or General Contractor has retained an Asbestos Removal Contractor to remove the asbestos. The dates for asbestos removal have been established. However, no Demolition Contractor has been chosen, and the dates for demolition are unknown. Under this scenario, the Demolition Contractor is not hired until after the Asbestos Contractor has completed asbestos removal. The Department receives notice from the Asbestos Contractor, and the notice does not include the scheduled dates of demolition, as required by 40 CFR 61.145(b)(4)(ix). The Department inspects the site after the asbestos removal has been completed. At the time of inspection, a Demolition Contractor has been retained, the building has been demolished, and new construction has begun. The Owner acknowledges to the Department that prior to the submitting its notification to the Department, the Asbestos Contractor asked the Owner for the dates of demolition but the Owner did not have the information at that time.

II. PARTIAL REFUSAL TO RULE

Petitioner has presented seven specific questions regarding the application of 40 CFR 61.145(a) to this set of facts. Six of those questions (nos. 1, 2, 3, 4, 6, and the portion of 7 relating to fines) directly relate to at least one contested case presently before the

Department. Therefore, the Department declines, in part, to issue a ruling as requested because:

1. The questions presented in the petition are also presented in a current contested case or cases that may definitively resolve them. Administrative Order No. 94-AQ-04 was issued against Economy Solar Corp. on January 27, 1994. Administrative Order No. 94-AQ-04 was appealed by the petitioner herein, Stephen J. Intlekoker, acting as a consultant on behalf of Economy Solar Corp. The appeal of Administrative Order No. 94-AQ-04 is currently the subject of a contested case before the Department. While the Petitioner has asserted that the hypothetical facts presented in his Petition for Declaratory Ruling differ from the facts of the pending contested case, those facts are substantially the same. The distinctions that Petitioner has attempted to draw for purposes of obtaining a Declaratory Ruling are not significant. Further, several of these issues also are the subject of other similar pending contested cases.
2. The questions presented by the petition would more properly be resolved in a different type of proceeding. The contested case concerning the appeal of Administrative Order No. 94-AQ-04 is the appropriate forum in which to answer the questions presented herein by Petitioner.
3. The petition is not based on facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge an agency decision already made.

III. PARTIAL DECLARATORY RULING

Two of the questions presented by Petitioner relate to the definition of "owner or operator of a demolition or renovation activity" found at 40 CFR 61.141. Those questions may be answered by referring to that definition. Therefore, the Department will issue a partial declaratory ruling, answering those two questions as they relate to the hypothetical facts presented by Petitioner and to that definition.

Petitioner's question no. 5 is as follows:

If the asbestos contractor is considered "operator" under the above statute as is the demolition contractor who follows the asbestos removal contractor - should the general contractor who follows both of these contractors be held liable for failure of the owner or other two contractors to correctly notify of a demolition?

Petitioner's question no. 7 is as follows:

How far does the term operator as referred to in 61.145(a) apply in regard to the demolition activity? To the owner? To the asbestos contractor? To the demolition contractor? To the architect who prepared the specification for demolition? To the technical air monitoring firm who "cleared" the asbestos removal? To the general contractor who received the bids from the subs (asbestos contractor, demo contractor) and is their culpability equal as to fines when the demolition notice is not sent in properly?

Both of these questions ask for an interpretation of the following provision found at 40 CFR 61.145(a):

Applicability. To determine which requirements of paragraphs (1), (b), and (c) of this section apply to the owner or operator of a demolition or renovation activity and prior to the commencement of the demolition or renovation, thoroughly inspect the affected facility or part of the facility where the demolition or renovation will occur for the presence of asbestos, including Category I and Category II nonfriable ACM. The requirements of paragraphs (b) and (c) of this section apply to each owner or operator of a demolition or renovation activity, including the removal of RACM as follows:...

Petitioner asks who would be considered an "owner or operator of a demolition or renovation activity" according to the provisions of 40 CFR 61.145(a). A definition of "owner or operator of a demolition or renovation activity" is found in at 40 CFR 61.141. That definition is as follows:

Owner or operator of a demolition or renovation activity means any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.

Therefore, Petitioner's question no. 5 may be answered by stating that a general contractor is liable to comply with the provisions of 40 CFR 61.145(a) if that general contractor owns leases, operates, controls, or supervises the demolition operation or the facility being demolished. Likewise, Petitioner's question no. 7, except for the portion relating to fines, may be answered by stating that any person who fits within the definition of "owner or operator of a demolition or renovation activity" may be held liable

June 1994

Environmental Protection Commission Minutes

under the provisions of 40 CFR 61.145(a). This includes the owner, the asbestos contractor, the demolition contractor, the architect who prepared the specification for demolition, the technical air monitoring firm who "cleared" the asbestos removal, and the general contractor who received bids from the subs if those persons own, lease, operate, control, or supervise the facility being demolished or renovated or own, lease, operate, control, or supervise the demolition or renovation operation, or both.

Dated this ____ day of ____.

LARRY J. WILSON, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

_____, 1994.

Environmental Protection Commission Minutes
Before the Department of
Natural Resources

June 1994

Petition by:
Stephen J. Intlekofer
d.b.a. American Asbestos
Training Center, Ltd. for
a Declaratory ruling on IAC567-
23.1(3)(a)(455B) (adopting by
reference 40CFR 61.145(a)

No. _____

Petition for Declaratory
Ruling

Amendment

Comes now the petitioner Stephen J. Intlekofer, petitioner in the
above titled matter and offers amendment to the above titled
action:

Petition Amendment

1) The amendment changed the quoted reference to the federal
register to 40 CFR 61.145(a) (applicability) in the petitioners
title and under 14 of the petition in relevant put as follows:

61.145(a) Applicability. To determine which requirements of
paragraphs (a), (b), and (c) of this section apply to the
owner or operator of a demolition or renovation activity and
prior to the commencement of the demolition or renovation,
thoroughly inspect the affected facility or part of the
facility where the demolition or renovation operation will
occur for the presence of asbestos including Category I and
Category II nonfriable ACM. The requirements of paragraphs
(b) and (c) of this section apply to each owner or operator of
a demolition or renovation activity, including the removal of
RACM as follows:...

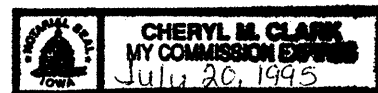
Respectfully submitted:

By: Stephen J. Intlekofer
Stephen J. Intlekofer, Consultant
for Economy Solar Corp.
121 East Grand Street
Monticello, Iowa 52310
Phone (319) 465-5786

Original to: Department of Natural Resources
Anne M. Preziosi, its attorney
900 East Grand Avenue
Des Moines, Iowa 50319
515-281-6243

The above pleading was sent by first class mail in properly
addressed envelope on May 13, 1994 by Cheryl M. Clark, Notary
Public

Cheryl M. Clark
Cheryl M. Clark



E94Jun-61

Before the Department of
Natural Resources

Petition by:

Stephen J. Intlekofer
d.b.a. American Asbestos
Training Center, Ltd. for
a Declaratory ruling on IAC567-
23.1(3)(a)(455B) (adopting by
reference 40CFR 61.145(a)

No. _____

Petition for Declaratory
Ruling

Amended

Comes now the petitioner Stephen J. Intlekofer, petitioner in the
above titled matter and states:

FACTS

1. Petitioner is a resident of the state of Iowa and conducts a business which provides services that include assisting in regulatory compliance with respect for the inspection of, management of, and the removal of asbestos in public, institutional and commercial buildings in Iowa.
2. Iowa Administrative code has rules which regulate notification of the Department of Natural Resources prior to the demolition of public buildings IAC 567---23.1 (3)(a)(455b) adopting 40CFR61(145)(C).
3. There exists the need to remove asbestos in buildings in Iowa prior to demolition 40CFR 61(145)(C)(5)(c)(1) "Remove all RACM from a facility being demolished...
4. The general procedure is remove the RACM before the demolition. The asbestos contractor is to notify the DNR 10 "working days" in advance before asbestos removal begins and to notify DNR of scheduled dates of demolition and name the demolition "operator".
5. The owner sometimes does not know at the time of asbestos removal the name of the operator for demolition (or renovation).
6. DNR has asked that if the demolition or renovation dates and operator are unknown to fill in the blanks of the notification with the same dates as the asbestos removal and to leave the "other operator" blanks empty. (Testimony of Azeltine, DNR Agent, 93-AQ-07 at administrative hearing DNR vs. Economy Solar Corp.).
7. Hypothetically, a DNR agent examines a notification for a demolition. The demolition dates correspond to the asbestos removal dates and no "other operator" is listed.

8. The asbestos removal contractor asked the owner at the time of the pending demolition. The owner did not know at the time of notification the dates of demolition or who the demolition contractor was. The owner was rebuilding on the site and has selected a general contractor and architect prior to the asbestos contractors notification.
9. The DNR agent visits the site after the asbestos removal and demolition are complete and observes building going on by a general contractor.
10. Upon questioning the owner admits to DNR the validity of the asbestos removal contractors inquiries prior to notification and the veracity of his notification statements.
11. DNR cites the asbestos removal contractor for failure to notify the DNR of the name of the demolition contractor and correct dates of demolition.
12. While DNR would have the statutory authority to fine the asbestos removal contractor for failure to properly notify the DNR it would be unreasonable to do so. The asbestos contractor did what a reasonable person would do in asking the owner (who controlled the site) who was to follow to do demolition. The owner did not know or had not decided and the general contractor bids weren't let yet. Therefore the asbestos removal contractor could not report what he had no way of knowing. The owner agrees the asbestos contractor did not know and was not told when the demo contractor was selected.
13. The asbestos removal contractor should not be held liable for the actions (or failure thereof) of the owner on whom he depended for information. The owner did not inform the asbestos contractor of the selection of a demolition contractor. The asbestos contractor was estopped from revising the notification he was required to send. While a violation of the notification law is evident it should not be the asbestos contractors violation. The notice of violation should belong to the owner who is also responsible under the act and who was the only person capable of changing, revising or notifying the first notification.

Specific Rule - The Applicability of Which is Questioned

14. The Iowa Administrative code adopts 40CFR 61.145 (a) Applicability. To determine which requirements of paragraphs (a), (b), and (c) of this section apply to the owner or operator of a demolition or renovation activity and prior to the commencement of the demolition or renovation, thoroughly inspect the affected facility or part of the facility where

the demolition or renovation operation will occur for the presence of asbestos, including Category I and Category II nonfriable ACM. The requirements of paragraphs (b) and (c) or this section apply to each owner or operator of a demolition or renovation activity, including the removal of RACM as follows:...

Questions Presented

15. Questions #1: Where notification is ordered under the statute; and both owner or operator can be held accountable for failure to properly identify the demolition contractor, is it reasonable to hold the asbestos contractor liable for citations and fines when at the time of notification it can be demonstrated the asbestos contractor did not have knowledge of that information and did not have knowledge later for failure of the owner to advise him(her) once the demolition contractor had been chosen by the owner?

Answer: The answer to question #1 should be No. While the obligation to notify is both the owners and asbestos removal contractors under statute it is unreasonable to hold one person or company liable for the actions or inactions of another particularly when the owner who had the knowledge admits the asbestos removal contractor was not informed. In that case the owner should be issued the citation or penalty for failure to revise the notification. The owner is the only one who had the opportunity to revise and failed to do so. The asbestos contractor should not be cited.

16. Questions #2: In the case where the owner is systematically questioned by the asbestos removal contractor about the notification and the asbestos contractor writes the answers down, mailing a copy of the notification to the owner and explaining clearly its importance as to accuracy, timeliness and potential for fine if incorrect; should the asbestos contractor be held liable for incorrect information given to him (her) by the owner and discovered under scrutiny by DNR? Should the asbestos contractor therefore be given notice of violation and administrative penalties?

Answer: If it can be demonstrated the owner reviewed the notification sent by the asbestos contractor signing it or failing to timely correct it and by so doing attesting to its accuracy, the owner should be held accountable for the information supplied by him and forwarded by the asbestos contractor. (The owner should not be held accountable over that which he(she) has no control. For example if the asbestos contractor shows up a day late and fails to revise his start date the asbestos contractor is at fault). Information supplied by the owner should be the owners responsibility as to accuracy. Again the principle of

reasonableness should be applied. The owner should not be held responsible for the actions (or failure to act) attributable to the asbestos contractor and beyond his ability to control. Our entire justice system is built on what the reasonable man would do in a particular situation. It is inherently assumed that no man can control another in a free society, nor should he be held accountable for the actions or inactions of another over whom he holds no influence.

17. Question #3: In this situation the asbestos removal contractor had his work to do first and had the responsibility to notify for his part. Having questioned the owner who did not know who the demo contractor was going to be, did the demo contractor once assigned have the obligation to revise the demolition dates and name and phone number to the exclusion of the asbestos removal contractor?

Answer: Yes, either the demolition contractor or the owner have the responsibility to establish that information, assuming again, that the asbestos contractor was not informed of the information. If the asbestos contractor was not informed of the information, the asbestos contractor should not be cited for failure of others over whom he has no knowledge or control. Conversely, should the asbestos contractor be informed of assignment of a demolition contractor either while his notice is in effect or before the asbestos contractor must re-notify or all three (owner, asbestos contractor, demolition contractor) are subject to citation or notice of violation (N.O.V.) if the demo contractor failed to revise the original notification or failed to file a second notification for demolition and proceeded.

The primary concern again is the "reasonableness of expectation." It is reasonable to expect notification from one who was subject to the rule and can be established as having knowledge and failed to act when required to do so.

18. Questions #4: Should the owner or the asbestos contractor who was given information by the demolition contractor be held liable for (N.O.V.) or citation should information given by the demo contractor prove to be incorrect and the owner or asbestos contractor can substantiate they provided the information given to them by the demo contractor which in good faith they believed to be correct?

Answer: While all three are subject to fine by the statute it is unreasonable for either the owner or the asbestos contractor be found or given (N.O.V.) for information they believed to be true and given to them by a third party (the demo contractor). It if can be shown that they both acted in good faith and received the information from the demolition

contractor who failed to correct it or who approved it would be capricious to assign fault to the owner or asbestos contractor who acted upon the information supplied by the demolition contractor.

19. Question #5: If the asbestos contractor is considered "operator" under the above statute as is the demolition contractor who follows the asbestos removal contractor - should the general contractor who follows both of these contractors be held liable for failure of the owner or other two contractors to correctly notify of a demolition?

The Answer is Yes. The general contractor has an obligation to notify as he is an "operator" under the code. Often the general contractor has knowledge of all aspects of the process from asbestos removal through demolition to construction particularly if the general contractor has subcontracted the work of asbestos removal and demolition. The general contractor should be held to a higher standard because he has greater knowledge (control) of the process where he has hired the work with the consent of the owner. The owner shows equal responsibility for notification, again, because he had the greatest knowledge and control of the project and carries the greatest responsibility along with the general contractor.

20. Question #6: Should the owner and the asbestos contractor be given equal fines if each has equal opportunity for notification? Or should the party which has greatest knowledge, opportunity and control of project be given the greatest fine for failure to revise a notification where a demolition takes place without notification but with the knowledge of both owner and asbestos contractor?

Answer: Equal knowledge should mean equal fine. Determination of amount should be determined by severity of violation.

21. Question #7: How far does the term operator as referred to 61.145 (a) apply in regard to the demolition activity? To the owner? To the asbestos contractor? To the demolition contractor? To the architect who prepared the specification for demolition? To the technical air monitoring firm who "cleared" the asbestos removal? To the general contractor who received the bids from the subs (asbestos contractor, demo contractor) and is their culpability equal as to fines when the demolition notice is not sent in properly?

Answer: Culpability should be determined as to which parties had knowledge and control of the project. Technicians who "cleared" the air on request but had no control should not be given (N.O.V.) - (least control). Unless the technician knew or was told concerning no notification. He then would be

subject to (N.O.V).

Statement

22. To the best of my knowledge, the petitioner is not currently a party to another proceeding involving the questions at issue, nor are these questions posed which are based on the hypothetical facts set forth above, decided by, or pending determination by or are under investigation by a government agency except to the extent that some partial investigation of specific facts concerning a situation have been investigated by Brad Azeltine, Environmental Specialist in regard to Economy Solar Corp., represented by myself.

The similarity lies in that Economy Solar Corp. was charged for failure to notify of demolition, failure to name the demolition contractor and dates of demolition at Farmstead.

The difference lies in that in my set of hypothetical facts there is a general contractor and construction is to follow demolition. Those facts do not exist in Economy's case.

The situation posed is a general one and common, where an owner has not decided on a demolition contractor and once they do (or their architect does) fails to advise the asbestos contractor. In a general sense how far does the term "operator" extend?.

OTHER PERSONS OR CLASSES AFFECTED:

23. The Master Builders of Iowa, 221 Park St., Des Moines, Iowa.
24. The class of demolition contractors in Iowa.
25. The class of general contractors who might follow demolition.
26. All Churches, Government Agencies, Public Building owners who hire asbestos removal and demolition prior to construction in Iowa.
27. Iowa Engineering Society, 1051 Office Park Road, Suite 2, West Des Moines, Iowa 50312 - David Scott. 223-0309
28. Iowa Division of Labor Services, 1000 East Grand Street, Des Moines, Iowa 50319 515-281-3606
29. Iowa Industrial Council, 2771 104 St. Urbandale, Iowa 50322 515-276-2424
30. Iowa Business Council, 100 East Grand Avenue, Des Moines, Iowa 50309 515-246-1700

31. Iowa Hospital Association, 100 East Grand Avenue, Des Moines, Iowa 50309 515-288-1955
32. American Institute of Architects, Iowa Chapter, 1000 Walnut Street, Suite 101 Des Moines, 515-244-7502

Directions for Routing

Director of the Department of Natural Resources, Henry A. Wallace Building, 900 East Grand Avenue, Des Moines, Iowa 50319-0034, Peter Hamlin, Chief, Air Quality Bureau, IDNR.



Stephen J. Intlekofer
d/b/a American Asbestos Training Center, Ltd.
121 East Grand Street
Monticello, Iowa 52310

Mr. Murphy stated that in the petition Mr. Steve Intlekofer asks various questions about the definition of owner and operators under the asbestos NESHAP rules. He related that Mr. Intlekofer describes a hypothetical situation in which to apply the questions, and staff have declined to rule on a majority of the questions but did provide a response to two questions. Mr. Murphy stated that the primary reason for not answering all of the questions is that many of these situations are pending before the department in contested cases, and it is felt that this is not the proper method for resolving these cases. He related that the contested cases may resolve some of the issues.

Appointment - Steve Intlekofer

Steve Intlekofer, American Asbestos Training Center, submitted copies of a letter he wrote the Commission stating that the declaratory judgement issued by the department is not in sync with EPA's interpretation of the NESHAP law. His letter included a preamble to the 1984 NESHAP law. He recommended that the Commission not approve the declaratory judgement and reasoned that DNR lacks jurisdiction in governing waste once it is on a vehicle for transport and cannot mandate its immediate disposal according to EPA's own declarations. He expanded on this issue. Mr. Intlekofer asked if he could also address the Commission on another issue.

Chairperson Siebenmann asked Mr. Intlekofer to wait with the other issue until the Board has acted on this matter.

Mr. Murphy stated that he does not recall any questions in the petition along the lines Mr. Intlekofer just talked about in regard to transportation or removal of asbestos. He added that the ruling the department issued does not address that question. Mr. Murphy informed the Commission of their options in this matter.

The Commission took no action which, in effect, upholds the department's ruling.

DEPARTMENTAL RULING UPHELD

Mr. Intlekofer stated that the item the Commission just ruled on is relevant to the comments he will now make and noted that it has to do with the department's enforcement of current NESHAPS standards. He related that those standards address inspecting a building prior to renovation and require that notification be sent if there is asbestos in the building, and this rule has been in effect since 1990. He stated that he sent a letter to the department asking if state buildings that are owned, leased or operated by the state have been sending in notifications prior to their renovations and whether inspections have been made. Mr. Intlekofer alleged that the department is not enforcing the same regulations for the state as it is for private citizens. He went on to mention specific projects including the DOT's drivers license stations, the Men's Reformatory at Ft. Madison, the Capitol Complex, Employment Services building and a host of other state buildings. He asked the Commission to direct the department to enforce the same type of notifications for state facilities that are required of the private sector.

Mr. Stokes commented that he cannot let unsubstantiated and fairly irrational statements go unchallenged. He stated that the department has had the responsibility for conducting the asbestos program for about two years, and prior to that time the program was administered by the federal government. He emphasized that since the department has had that responsibility they have not shown breaks to anybody. He related that staff have administered the provisions they are entitled to and authorized to enforce against everybody equally, whether they be the federal government, the state government, or a private party. He suggested that if Mr. Intlekofer has some substantiation or documentation to support his allegations that he provide them to the department or to the Commission in writing.

REFERRALS TO THE ATTORNEY GENERAL

Mike Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the commissioners and are confidential pursuant to Iowa Code section 22.7(4). The parties have been informed of this action and may appear to discuss this matter. If the Commission needs to discuss strategy with counsel on any matter where the disclosure of matters discussed would be likely to prejudice or disadvantage its position in litigation, the Commission may go into closed session pursuant to Iowa Code section 21.5(1)(c).

- a. Mark Achenbach (Rockford) - underground tanks
- b. Jay Browns (Murray) - underground tanks
- c. City of Orchard - wastewater
- d. Verna and Don Reed, Andrea Silsby (Union Co.) - solid waste

Mark Achenbach

Mr. Murphy briefed the Commission on the history of this case involving a tank site cleanup and closure.

Motion was made by William Ehm for referral to the Attorney General's Office. Seconded by Charlotte Mohr.

Discussion followed regarding the difference in fines between this case and a similar case.

Motion carried unanimously.

REFERRED

Jay Browns

Mr. Murphy briefed the Commission on the history of this case involving a tank site investigation and report.

Motion was made by Charlotte Mohr for referral to the Attorney General's Office. Seconded by Rozanne King. Motion carried unanimously.

REFERRED

City of Orchard

Mr. Murphy stated that staff will withdraw this referral because they feel it can now be handled administratively. He updated the Commission on the status of this case.

REFERRAL WITHDRAWN

Verna and Don Reed; Andrea Silsby

Mr. Murphy briefed the Commission on this case noting that it involves a tire disposal site and the involved parties have not paid the penalty or appealed the Order.

Motion was made by Rozanne King for referral to the Attorney General's Office. Seconded by Verlon Britt. Motion carried unanimously.

REFERRED**1993 FLOOD REPORT**

Mike Carrier, Division Administrator, Parks, Recreation & Preserves Division, presented the following item.

Mr. Carrier reported on the flood recovery response by DNR noting that it was divided into two phases, those being Short-Term Response and Long-Term Response. He related that DNR staff participated in planning and mobilizing a coordinated statewide response and offered assistance in a variety of areas. He expanded on details of the assistance provided which included assisting local law enforcement agencies; certification and testing of public water supplies being brought back on line; and working with municipalities to provide advice, technical assistance, and waive discharge requirements to keep municipal water supplies and waste treatment facilities from damage or failure. Staff also worked with Emergency Management Division to assess flood potential and issue advisories. Staff assessed damage to DNR facilities, issued warnings to recreationists, provided assistance to persons directly affected, and issued press releases regarding flood conditions and impacts.

Mr. Carrier stated that in the long-term phase DNR and DOT worked together to compile a list of affected infrastructure in Iowa. DNR continues to work with local entities to recover flood damaged systems. He covered the assistance programs that are available and what the funds are used for. He noted that DNR received assistance from nine federal flood recovery programs as follows: \$250,000 grant for youth corps workers to repair eroded trails; \$275,000 for technical assistance in testing public water supplies; \$895,000 for public water sampling; \$5,000 for silt and sediment sampling; \$335,000 for surface water monitoring; \$233,600 for replacement of a flood damaged air quality monitoring station; \$500,000 for leaking UST's; and \$1,000,000 in hazardous waste cleanup. Unused funds will be passed on to local government.

Mr. Carrier stated that through FEMA, DNR has been approved to receive \$2.1 million to repair damaged public facilities owned or managed by the department. This amount may increase by another \$500,000 to \$1,000,000 as final estimates are completed. He noted that 200 individual repair projects have been identified as eligible for FEMA funding and most have been awarded funds. The EWP program committed \$200,000 to DNR projects that include repairing Red Haw Lake dam and protection of Wittrock Indian Village. Floodplain staff continue to meet with COE, SCS, and FEMA to review damaged levee systems and determine funding.

In conclusion, Mr. Carrier noted that 1994 will be remembered as the year of a tremendous amount of work devoted to repairing what the floods damaged. He related that staff are repairing 1993 damage, completing 1993 projects that were postponed, and doing the normal 1994 work originally planned.

Discussion followed regarding regulations for removing sand, deposited by the floods, from farmland.

GENERAL DISCUSSION

Next Meeting

Chairperson Siebenmann reviewed that after last month's meeting there was discussion about holding meetings in conjunction with a field trip, to visit some areas of interest to the Commission. She read a list of possible sites to visit and suggested that since someone from the AG's Office is going to be present next month, the Commission may want to visit the Des Moines Water Works plant and Hawkeye Wood Shavings. The Commission decided that they would do the Des Moines tour in July and, in the meantime, think about where they want to meet later on.

Charlotte Mohr stated that she would like to keep it to a one day meeting/tour whenever possible.

Clean Water Act Task Force

William Ehm voiced concerns about problems that could occur during the course of implementation of the Clean Water Act. He related that he can foresee problems arising similar to those that occurred with the development and adoption of the Protected Streams rules, where things were blown out of proportion and misunderstood. Commissioner Ehm pointed out that when an ad hoc group worked with staff on major issues/rules in the past, it has worked well. He indicated that he would like to see a group start looking at some of the related Clean Water Act issues before they come down from EPA. He suggested that the task force include a broad spectrum of people that could be divided into several subcommittees to study various issues such as sediment problems, soil erosion, chemicals in water, etc. Commissioner Ehm added that the group could possibly work with other departments such as DALs, SCS and others. He noted that this could head off a fiasco before it happens and he would like to see the Commission be a little more pro-active.

Don Paulin, Deputy Director, related that a task force might allow for easier blending with those mandates and added that it might serve to educate some legislators on these issues.

Chairperson Siebenmann suggested that Don Paulin meet with Director Wilson to explore what can be set up and what groups might be included. She appointed William Ehm to be the

Commission's liaison with the group. She asked that information be provided to the Commission next month on this issue along with a timetable for same.

Governor's Environmental Livestock Task Force

Clark Yeager asked for a status report on this task force.

Don Paulin reviewed that there has been a formational meeting and the group's first meeting will be next Monday. He related that there have been three public hearings around the state that were fairly well publicized, and a lot of people showed up at the meetings. He noted that they have not heard anything different than what has been said over the last several months. The problems are well defined but there has not been any movement towards solutions yet. Mr. Paulin indicated that the Task Force responsibility is to make recommendations to the Governor by mid-December. He related that there is also a legislative task force working on this same issue.

Chairperson Siebenmann asked that the Commission be briefed on the status of this Task Force as they continue their work.

Rosebar Tire Shredding

Charlotte Mohr asked for an update on Rosebar.

Chairperson Siebenmann stated that photos of Rosebar which were taken last week were circulated for the Commission's review. She added that there is an Administrative Order in effect.

Mr. Stokes commented that the department has issued an Administrative Order ordering immediate cessation of accepting additional tires and immediate removal of tires to levels that are in compliance with the permit conditions. He related that there are a few days left in their appeal period.

Charlotte Mohr asked about the second grant Rosebar applied for.

Mr. Stokes stated that they did not receive that grant because they were not in compliance and the Commission indicated that they should not receive any money until they were in compliance.

NEXT MEETING DATES

July 18, 1994

August 15, 1994

September 19, 1994

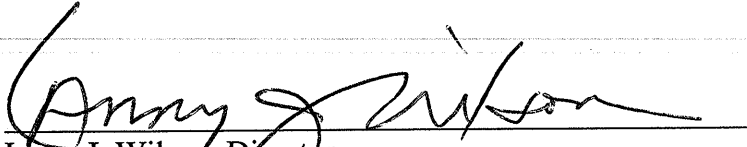
ADJOURNMENT

June 1994

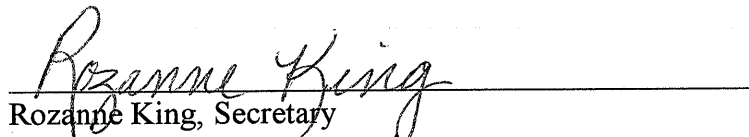
Environmental Protection Commission Minutes

Motion was made by Rozanne King to adjourn the meeting. Seconded by Gary Priebe. Motion carried unanimously.

With no further business to come before the Environmental Protection Commission, Chairperson Siebenmann adjourned the meeting at 2:05 p.m., Monday, June 20, 1994.


Larry J. Wilson, Director


Nancy Lee Siebenmann, Chair


Rozanne King, Secretary

INDEX

A

Achenbach, Mark
 Referrals to the Attorney General, 70
 Adjournment, 73

Adoption of Agenda, 1

Appointment

Fors, Kevin (representing Bob Grady),
 14
 Intlekofer, Steve (petition for
 declaratory ruling), 68
 Appointment - Kevin Fors, 14
 Approval of Minutes, 1

B

Browns, Jay
 Referrals to the Attorney General, 70
 Budget Request
 FY96/97
 Strategic Planning Statement, 6

C

Call to Order, 1
 City of Orchard
 Referrals to the Attorney General, 70
 Clean Water Act Task Force, 72
 Commissioners Present, 1
 Cosner, Sue
 Public Participation (Landfill Financial
 Responsibility rules), 15

D

Director's Report, 1
 Duffy, Pete
 Public Participation (Landfill Financial
 Responsibility rules), 15

F

Feldstein, Stuart
 Public Participation (landfill financial
 responsibility rules), 16

Final Rule

Chapter 103 and 111, Landfill Financial
 Responsibility, 38

Chapter 134, Registration of
 Groundwater Professionals, 51

Chapter 72, Protected Stream Variance
 Criteria, 35

Financial Status Report, 2

Flood Report - 1993, 71

Fors, Kevin - Appointment (representing
 Bob Grady), 14

G

Gault, Chris
 Public Participation (protected streams
 rule), 16
 General Discussion, 72
 Governor's Environmental Livestock Task
 Force, 73

H

Honcomp, David
 Public Participation (landfill financial
 responsibility rules), 17

I

Intlekofer, Steve - Appointment (petition
 for declaratory ruling), 68

L

Lammers, Donald
 Public Participation (protected streams),
 15
 Landfill Financial Responsibility--Chapter
 103 and 111
 Final Rule, 38

M

Monthly Reports, 17

N

Next Meeting, 72
 Notice of Intended Action
 Chapter 23, Open Burning, 54

O

Open Burning--Chapter 23
 Notice of Intended Action, 54

P

Petition for Declaratory Ruling on Rule
 23.1(3)"a", 56
 Public Participation
 Cosner, Sue (landfill financial
 responsibility rules), 15
 Duffy, Pete (Landfill Financial
 Responsibility rules), 15
 Feldstein, Stuart (landfill financial
 responsibility rules), 16
 Gault, Chris (protected streams rule), 16
 Honcomp, David (landfill financial
 responsibility rules), 17
 Lammers, Donald (protected streams),
 15
 Wadell, Elliott (landfill financial
 responsibility rules), 16

R

Silsby, Andrea
 Referrals to the Attorney General, 71
 Referrals to the Attorney General
 Achenbach, Mark, 70
 Browns, Jay, 70
 City of Orchard, 70
 Reed, Verna & Don, 71
 Registration of Groundwater Professionals--
 Chapter 134
 Final Rule, 51
 Reports
 1993 Flood Report, 71
 Rosebar Tire Shredding, 73

S

Reed, Verna & Don
 Referrals to the Attorney General, 71

W

Waddell, Elliott
 Public Participation (landfill financial
 responsibility rules), 16